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Constitution of 1879 as Amended

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

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Compiled by
BION M. GREGORY
Legislative Counsel

CHAPTER 339

An act to add Chapter 3.9 (commencing with Section 1040) to Part 3 of Division 2 of the Labor Code, relating to employees.

[Approved by Governor August 5, 1991. Filed with Secretary of State August 5, 1991.]

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

SECTION 1. The Legislature finds and declares all of the following:

(a) A substantial number of California workers are burdened by a problem of illiteracy that limits their productive capacity.

(b) Many of these workers are embarrassed to reveal their illiteracy and are hesitant to seek assistance from their employer for fear of losing their jobs.

(c) Most California employers are unaware of adult literacy education providers and thus are unable to respond to requests for assistance.

(d) By providing assistance, employers would be improving the productivity of the workplace and the economic well-being of the employee.

SEC. 2. Chapter 3.9 (commencing with Section 1040) is added to Part 3 of Division 2 of the Labor Code, to read:

CHAPTER 3.9. EMPLOYEE LITERACY ASSISTANCE

1040. This chapter shall be known and may be cited as the Employee Literacy Education Assistance Act.

1041. (a) Every private employer regularly employing 25 or more employees shall reasonably accommodate and assist any employee who reveals a problem of illiteracy and requests employer assistance in enrolling in an adult literacy education program, provided that this reasonable accommodation does not impose an undue hardship on the employer.

(b) For purposes of this section, employer assistance includes, but is not limited to, providing the employee with the locations of local literacy education programs or arranging for a literacy education provider to visit the jobsite.

1042. The employer shall make reasonable efforts to safeguard the privacy of the employee as to the fact that he or she has a problem with illiteracy.

1043. Nothing in this chapter shall be construed to require an employer to provide time off with pay for an employee to enroll and participate in an adult literacy education program.

1044. An employee who reveals a problem of illiteracy and who satisfactorily performs his or her work shall not be subject to termination of employment because of the disclosure of illiteracy.

CHAPTER 340

An act to add Section 769.2 to the Insurance Code, relating to insurance, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 5, 1991. Filed with Secretary of State August 5, 1991.]

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

SECTION 1. Section 769.2 is added to the Insurance Code, to read:

769.2. Any insurer that makes a partial refund of premiums pursuant to Section 1861.01 of this code with respect to insurance issued prior to November 8, 1989, may not require an agent or broker to refund any portion of a commission which the insurer has claimed, and the commissioner has allowed, as an expense for purposes of the commissioner's determination of the insurer's actual return for the lines of insurance subject to Section 1861.01.

Nothing in this section or the application thereof shall alter the amount of any refund payable to policyholders pursuant to a decision of the commissioner in a rate-of-return hearing.

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

In order to clarify the application of refund requirements under Proposition 103 with respect to the commissions and fees of insurance agents and brokers without delay, it is necessary that this act take effect immediately.

CHAPTER 341

An act to amend Section 1091 of the Government Code, relating to public employees, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 5, 1991 Filed with Secretary of State August 5, 1991.]

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

SECTION 1. Section 1091 of the Government Code is amended to read:

1091. (a) An officer shall not be deemed to be interested in a contract entered into by a body or board of which the officer is a member within the meaning of this article if the officer has only a

remote interest in the contract and if the fact of that interest is disclosed to the body of the board of which the officer is a member and noted in its official records, and thereafter the body or board authorizes, approves, or ratifies the contract in good faith by a vote of its membership sufficient for the purpose without counting the vote or votes of the officer or member with the remote interest.

(b) As used in this article, "remote interest" means any of the following:

(1) That of an officer or employee of a nonprofit corporation, except as provided in paragraph (8) of subdivision (a) of Section 1091.5.

(2) That of an employee or agent of the contracting party, if the contracting party has 10 or more other employees and if the officer was an employee or agent of that contracting party for at least three years prior to the officer initially accepting his or her office.

For purposes of this paragraph, time of employment with the contracting party by the officer shall be counted in computing the three-year period specified in this paragraph even though the contracting party has been converted from one form of business organization to a different form of business organization within three years of the initial taking of office by the officer. Time of employment in that case shall be counted only if, after the transfer or change in organization, the real or ultimate ownership of the contracting party is the same or substantially similar to that which existed before the transfer or change in organization. For purposes of this paragraph, stockholders, bondholders, partners, or other persons holding an interest in the contracting party are regarded as having the "real or ultimate ownership" of the contracting party.

(3) That of an employee or agent of the contracting party, if all of the following conditions are met:

(A) The agency of which the person is an officer is a local public agency located in a county with a population of less than 4,000,000.

(B) The contract is competitively bid and is not for personal services.

(C) The employee or agent is not in a primary management capacity with the contracting party, is not an officer or director of the contracting party, and holds no ownership interest in the contracting party.

(D) The contracting party has 10 or more other employees.

(E) The employee or agent did not directly participate in formulating the bid of the contracting party.

(F) The contracting party is the lowest responsible bidder.

(4) That of a parent in the earnings of his or her minor child for personal services.

(5) That of a landlord or tenant of the contracting party.

(6) That of an attorney of the contracting party or that of an owner, officer, employee, or agent of a firm which renders, or has rendered, service to the contracting party in the capacity of stockbroker, insurance agent, insurance broker, real estate agent, or

real estate broker, if these individuals have not received and will not receive remuneration, consideration, or a commission as a result of the contract.

(7) That of a member of a nonprofit corporation formed under the Food and Agricultural Code or a nonprofit corporation formed under the Corporations Code for the sole purpose of engaging in the merchandising of agricultural products or the supplying of water.

(8) That of a supplier of goods or services when those goods or services have been supplied to the contracting party by the officer for at least five years prior to his or her election or appointment to office.

(9) That of a person subject to the provisions of Section 1090 in any contract or agreement entered into pursuant to the provisions of the California Land Conservation Act of 1965.

(10) That of an officer, director, or employee of a bank, bank holding company, or savings and loan association with which a party to the contract has the relationship of borrower or depositor, debtor or creditor.

(11) That of an engineer, geologist, or architect employed by a consulting engineering or architectural firm. This paragraph applies only to an employee of a consulting firm who does not serve in a primary management capacity, and does not apply to an officer or director of a consulting firm.

(12) That of an elected officer otherwise subject to Section 1090, in any housing assistance payment contract entered into pursuant to Section 8 of the United States Housing Act of 1937 (42 U.S.C. Sec. 1437f) as amended, provided that the housing assistance payment contract was in existence before Section 1090 became applicable to the officer and will be renewed or extended only as to the existing tenant, or, in a jurisdiction in which the rental vacancy rate is less than 5 percent, as to new tenants in a unit previously under a Section 8 contract. This section applies to any person who became a public official on or after November 1, 1986.

(13) That of an elected officer otherwise subject to Section 1090 who is also an elected director of a water replenishment district.

(c) This section is not applicable to any officer interested in a contract who influences or attempts to influence another member of the body or board of which he or she is a member to enter into the contract.

(d) The willful failure of an officer to disclose the fact of his or her interest in a contract pursuant to this section is punishable as provided in Section 1097. That violation does not void the contract unless the contracting party had knowledge of the fact of the remote interest of the officer at the time the contract was executed.

SEC. 2. Section 1091 of the Government Code is amended to read:

1091. (a) An officer shall not be deemed to be interested in a contract entered into by a body or board of which the officer is a member within the meaning of this article if the officer has only a

remote interest in the contract and if the fact of that interest is disclosed to the body of the board of which the officer is a member and noted in its official records, and thereafter the body or board authorizes, approves, or ratifies the contract in good faith by a vote of its membership sufficient for the purpose without counting the vote or votes of the officer or member with the remote interest.

(b) As used in this article, "remote interest" means any of the following:

(1) That of an officer or employee of a nonprofit corporation, except as provided in paragraph (8) of subdivision (a) of Section 1091.5.

(2) That of an employee or agent of the contracting party, if the contracting party has 10 or more other employees and if the officer was an employee or agent of that contracting party for at least three years prior to the officer initially accepting his or her office.

For purposes of this paragraph, time of employment with the contracting party by the officer shall be counted in computing the three-year period specified in this paragraph even though the contracting party has been converted from one form of business organization to a different form of business organization within three years of the initial taking of office by the officer. Time of employment in that case shall be counted only if, after the transfer or change in organization, the real or ultimate ownership of the contracting party is the same or substantially similar to that which existed before the transfer or change in organization. For purposes of this paragraph, stockholders, bondholders, partners, or other persons holding an interest in the contracting party are regarded as having the "real or ultimate ownership" of the contracting party.

(3) That of an employee or agent of the contracting party, if all of the following conditions are met:

(A) The agency of which the person is an officer is a local public agency located in a county with a population of less than 4,000,000.

(B) The contract is competitively bid and is not for personal services.

(C) The employee or agent is not in a primary management capacity with the contracting party, is not an officer or director of the contracting party, and holds no ownership interest in the contracting party.

(D) The contracting party has 10 or more other employees.

(E) The employee or agent did not directly participate in formulating the bid of the contracting party.

(F) The contracting party is the lowest responsible bidder.

(4) That of a parent in the earnings of his or her minor child for personal services.

(5) That of a landlord or tenant of the contracting party.

(6) That of an attorney of the contracting party or that of an owner, officer, employee, or agent of a firm which renders, or has rendered, service to the contracting party in the capacity of stockbroker, insurance agent, insurance broker, real estate agent, or

real estate broker, if these individuals have not received and will not receive remuneration, consideration, or a commission as a result of the contract.

(7) That of a member of a nonprofit corporation formed under the Food and Agricultural Code or a nonprofit corporation formed under the Corporations Code for the sole purpose of engaging in the merchandising of agricultural products or the supplying of water.

(8) That of a supplier of goods or services when those goods or services have been supplied to the contracting party by the officer for at least five years prior to his or her election or appointment to office.

(9) That of a person subject to the provisions of Section 1090 in any contract or agreement entered into pursuant to the provisions of the California Land Conservation Act of 1965.

(10) That of an officer, director, or employee of a bank, bank holding company, or savings and loan association with which a party to the contract has the relationship of borrower or depositor, debtor or creditor.

(11) That of an engineer, geologist, or architect employed by a consulting engineering or architectural firm. This paragraph applies only to an employee of a consulting firm who does not serve in a primary management capacity, and does not apply to an officer or director of a consulting firm.

(12) That of an elected officer otherwise subject to Section 1090, in any housing assistance payment contract entered into pursuant to Section 8 of the United States Housing Act of 1937 (42 U.S.C. Sec. 1437f) as amended, provided that the housing assistance payment contract was in existence before Section 1090 became applicable to the officer and will be renewed or extended only as to the existing tenant, or, in a jurisdiction in which the rental vacancy rate is less than 5 percent, as to new tenants in a unit previously under a Section 8 contract. This section applies to any person who became a public official on or after November 1, 1986.

(c) This section is not applicable to any officer interested in a contract who influences or attempts to influence another member of the body or board of which he or she is a member to enter into the contract.

(d) The willful failure of an officer to disclose the fact of his or her interest in a contract pursuant to this section is punishable as provided in Section 1097. That violation does not void the contract unless the contracting party had knowledge of the fact of the remote interest of the officer at the time the contract was executed.

SEC. 3. Section 2 of this bill incorporates amendments to Section 1091 of the Government Code proposed by both this bill and AB 2231. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1992, but this bill becomes operative first, (2) each bill amends Section 1091 of the Government Code, and (3) this bill is enacted after AB 2231, in which case Section 1091 of the Government Code, as amended by Section 1 of this bill,

shall remain operative only until the operative date of AB 2231, at which time Section 2 of this bill shall become operative.

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

In order to delete provisions inadvertently included in Section 1091 of the Government Code by Chapter 1593 of the Statutes of 1990 by the use of the incorrect last amended form of the section at the earliest possible time and to thereby avoid unnecessary confusion, it is necessary that this act take effect immediately.

CHAPTER 342

An act to amend Sections 1, 2, and 3 of Chapter 1311 of the Statutes of 1988, relating to the Pasadena Unified School District.

[Approved by Governor August 5, 1991. Filed with Secretary of State August 5, 1991.]

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

SECTION 1. Section 1 of Chapter 1311 of the Statutes of 1988 is amended to read:

Section 1. The Legislature finds and declares all of the following:

(a) The Pasadena Unified School District has operated a Tutoring and Homework Assistance Program since September 1985 through which pupils are able to receive appropriate homework or specialized tutorial assistance, or both, from trained personnel and volunteers after regular school hours at each of the district's 30 schools, at no cost to the pupil, and through which parents, teachers, and pupils receive information and referral services on the tutoring and homework support services available through the school district and other community organizations.

(b) The Tutoring and Homework Assistance Program has provided over 30,000 hours of assistance annually to over 1,000 pupils.

(c) Surveys completed by principals, site coordinators, classroom teachers, parents, and pupils have generated favorable responses to the program.

(d) The Tutoring and Homework Assistance Program is of educational benefit and provides a cost-effective means of reaching pupils, of supporting rather than replacing the role of parents, and of enabling pupils to succeed in school and, therefore, to be more likely to remain in school.

(e) The district has evaluated the program pursuant to the evaluation requirements of this act and has found that the program results in improved academic performance.

(f) The Tutoring and Homework Assistance Program has

demonstrated success during the first two years of operation and should be continued on a statewide basis.

SEC. 2. Section 2 of Chapter 1311 of the Statutes of 1988 is amended to read:

Sec. 2. (a) The Pasadena Unified School District shall furnish, on or before July 1, 1992, to the Superintendent of Public Instruction, a copy of its Tutoring and Homework Assistance Program, as developed and implemented pursuant to Chapter 1311 of the Statutes of 1988.

SEC. 3. Section 3 of Chapter 1311 of the Statutes of 1988 is amended to read:

Sec. 3. Any school district that implements this program may credit towards its summer school apportionments, computed pursuant to Section 42239 of the Education Code, as amended by the annual Budget Act, hours of homework and tutorial assistance provided pursuant to Sections 1 and 2 of this act, if the instruction is in core academic areas specified in paragraph (2) of subdivision (d) of Section 42239.

CHAPTER 343

An act to amend Section 5801 of, and to add and repeal Section 5801.1 of, the Business and Professions Code, relating to interior designers.

[Became law without Governor's signature Filed with Secretary of State August 6, 1991]

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

SECTION 1. Section 5801 of the Business and Professions Code is amended to read:

5801. A certified interior designer may obtain a stamp from an interior design organization which shall include a number which uniquely identifies and bears the name of that certified interior designer. The stamp certifies that the interior designer has provided the interior design organization with evidence of passage of an interior design examination approved by that interior design organization and any of the following:

(a) He or she is a graduate of a four or five-year accredited interior design degree program, and has two years of diversified interior design experience.

(b) He or she has completed a three-year accredited interior design certificate program, and has completed three years of diversified interior design experience.

(c) He or she has a combination of interior design education and diversified interior design experience for a total of eight years.

SEC. 2. Section 5801.1 is added to the Business and Professions Code, to read:

5801.1. Any person who qualifies as a certified interior designer pursuant to subdivision (a) of Section 5800 who applies for certification no later than December 31, 1992, and, pursuant to subdivision (c) of Section 5801, has a combination of interior design education and diversified interior design experience for a total of eight years and provides evidence of passage of the 1990, or later, Building and Barrier Free Codes section of the National Council for Interior Design Qualification (NCIDQ) examination no later than December 31, 1993, may obtain a stamp as prescribed in Section 5801.

This section shall be operative until January 1, 1994, and as of that date, is repealed unless a later enacted statute deletes or extends that date.

CHAPTER 344

An act to amend Section 31498.3 of, and to add Section 31469.5 to, the Government Code, relating to the County Employees Retirement Law of 1937, and declaring the urgency thereof, to take effect immediately.

[Became law without Governor's signature Filed with Secretary of State August 6, 1991.]

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

SECTION 1. Section 31469.5 is added to the Government Code, to read:

31469.5. (a) This section shall be applicable in the retirement system of any county of the 10th class, as defined by Sections 28020 and 28031, as amended by Chapter 1204 of the Statutes of 1971, if the board of supervisors executes a memorandum of understanding with the employee representatives and adopts, by majority vote, a resolution providing for safety status for probation officers, as provided in Section 31469.4.

(b) The purpose of this section is to provide optional safety status for probation officers employed on or before March 1, 1991. Notwithstanding Section 31558.6, that option shall be exercised within 120 days from the effective date of the implementation of Section 31469.4, together with the option to receive credit as a safety member for all or part of the time during which his or her duties would have made him or her eligible to become a safety member, if this section had then been in effect.

(c) Except as otherwise provided in this section, the retirement benefits of existing probation officers who elect to transfer from general membership in the county retirement system to safety

membership shall be implemented pursuant to Section 31484.5, except that:

(1) The definition of final compensation in Section 31462.1 shall no longer apply to probation officers electing safety status; instead, the definition of final compensation in Section 31462 shall apply at the date of retirement to all credited safety service regardless of previous service under Section 31462.1.

(2) For employees entitled to a cost-of-living adjustment upon retirement, Article 16.5 (commencing with Section 31870) shall apply, except that the increase in the allowance shall not exceed a maximum amount of 3 percent in any given year credited as safety membership. An employee who elects safety retirement under Section 31469.4 and who thereby waives his or her entitlement to a higher cost-of-living allowance shall be deemed to have waived the higher cost-of-living allowance with regard to all previous service credited as safety service at the date of retirement, regardless of previous service under any other provision and shall be deemed to have relinquished any right to the higher cost-of-living allowance without refund of contributions therefor, except as determined by the board of supervisors.

(3) An employee who elects safety retirement under Section 31469.4 may elect to receive credit as a safety member for all or part of the time during which his or her duties would have made him or her eligible to become a safety member if this section had then been in effect as provided in Section 31639.7, except that an election to receive part credit may be exercised only in multiples of five years of service. A member who elects to receive credit for only a part of that county service shall elect that county service latest in time and may not receive credit for any portion of county service prior in time to any county service for which he or she does not elect to received credit.

(4) A member not previously within the safety membership category who elects to receive credit for all or part of the time during which the member's duties would have made him or her eligible to become a safety member if this section had then been in effect shall pay into the retirement system the amount that would have had to be contributed by the employer to fund the employer's liability for safety membership and an amount equal to the difference between the employee's contributions actually made during the time for which he or she claims credit and the contributions the member would have made during that period if he or she had been in safety status during that period.

(d) All probation officers in Tier III who elect to transfer from general membership in the county retirement system to safety membership pursuant to this section shall be placed in Tier II regardless of their status prior to selecting Tier III benefits.

(e) All persons hired after the effective date of implementation of Section 31469.4 shall, upon retirement, have his or her cost-of-living allowance and final compensation computed in accordance with this

section.

SEC. 2. Section 31498.3 of the Government Code is amended to read:

31498.3. (a) General members may, within 180 days of the effective date of this article, elect to transfer to the retirement plan created by this article upon proper application executed by the member and filed with the board.

(b) The retirement benefits of the transferred members are governed and defined by this article.

(c) Transferring members relinquish and waive any and all previously available vested or accrued retirement, survivor, disability and death benefits. However, notwithstanding any other provision of this article, a transferring member shall receive credit for no more than 24 months of public service performed prior to December 31, 1969, including service with the employer, military service, and any other public service to which the member would otherwise be eligible under this chapter, except that member contributions shall not be collected.

(d) The transfer by the member is voluntary, and shall be irrevocable, unless the board of supervisors, by resolution, authorizes Retirement Plan 3 members to transfer to Retirement Plan 2, under terms and conditions specified in the resolution. These terms may include, but are not limited to, an eligibility provision based on the number of years in county service, a provision for crediting service in Retirement Plan 2 only for that service rendered after adoption of the resolution, or an eligibility provision allowing members to transfer to Retirement Plan 2 all county service rendered under Retirement Plan 3 provided the member deposits into the retirement fund within a specified time an amount equal to the contributions he or she would have made during that time, had he or she been a member of Retirement Plan 2, together with regular interest on that amount. The resolution may establish different conditions for different job classifications or groups, and for represented bargaining units, conditions mutually agreed upon by the employer and the employee representative. The board of supervisors may also establish any other conditions it deems necessary or desirable.

(e) Any member who has elected or transferred to the plan created by this article and who terminates his or her employment and is later reemployed shall not be entitled to change his or her election upon that reemployment, unless a resolution, enacted by the board of supervisors subsequent to the member's election to transfer to the new plan, so provides.

SEC. 3. This act shall be deemed to have become operative on March 1, 1991.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because this act is in accordance with the request of a local agency or school district which desired legislative authority to carry out the program

specified in this act. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

SEC. 5. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the California Constitution and shall go into immediate effect. The facts constituting the necessity are:

Representatives of San Mateo County probation and detention employees negotiated retirement benefits that require statutory clarification to implement a memorandum of understanding which takes effect on March 1, 1991. Therefore, it is necessary that this act take effect immediately.

CHAPTER 345

An act to amend Section 19596.1 of the Business and Professions Code, relating to horseracing, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 29, 1991 Filed with Secretary of State August 30, 1991.]

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

SECTION 1. Section 19596.1 of the Business and Professions Code is amended to read:

19596.1. Notwithstanding any other provision of law, the board may authorize an association conducting a race meeting to accept wagers on the results of out-of-state harness or quarter horse feature races or stake races, and, with the board's approval and with the concurrence of the horsemen's organization contracting with the association, other designated harness or quarter horse races during the period it is conducting the racing meeting, if the following conditions are met:

(a) The authorization complies with federal laws, including, but not limited to, Chapter 57 (commencing with Section 3001) of Title 15 of the United States Code.

(b) Wagering is offered only within the racing inclosure and only within 36 hours of the running of the out-of-state feature race.

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

In order to maximize needed state revenue from increased satellite wagering on racing meetings which can be conducted starting in 1991, it is necessary that this act take effect immediately.

CHAPTER 346

An act to amend Section 8878.52 of the Government Code, relating to earthquake safety, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 29, 1991. Filed with Secretary of State August 30, 1991.]

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

SECTION 1. Section 8878.52 of the Government Code is amended to read:

8878.52. As used in this chapter, the following terms have the following meanings:

(a) "Committee" means the Earthquake Safety and Public Buildings Rehabilitation Finance Committee created pursuant to subdivision (a) of Section 8878.111.

(b) "Commission" means the Seismic Safety Commission.

(c) "Fund" means the Earthquake Safety and Public Buildings Rehabilitation Fund of 1990 created pursuant to Section 8878.55.

(d) "Local government" means any city, county, city and county, or special district.

(e) "Office" means the Office of Emergency Services.

(f) "Project" means a program of work to retrofit, reconstruct, repair, replace, or relocate, for local government-owned facilities only, a building, facility, or both, which is owned by any city, county, city and county, or special district and which is included in an application for a grant of funds.

(g) "State Architect" means the Office of the State Architect.

(h) "State building or facility" means any building or structure owned by a state agency, which is identified pursuant to Section 8878.60, except for vehicular bridges, roadways, highways, or any facilities or buildings owned by the University of California or the California State University.

(i) "Local government building or facility" means an existing essential services building, as defined in Section 16007 of the Health and Safety Code, or an emergency or public safety local building as identified in Section 8878.99, which is owned by a city, county, city and county, or special district.

(j) State or local government buildings shall not include those owned by private for profit or private nonprofit corporations, or those owned by any combination, consortium, or joint powers agreement that includes a private nonprofit corporation.

(k) "Retrofit" means to either strengthen the structure of a building or facility, or to provide the means necessary to reduce the seismic force level experienced by a building or facility during an earthquake, so as to significantly reduce hazards to life safety while concomitantly providing for the substantially safe egress of

occupants during and immediately after such an earthquake.

SEC. 2. The sum of four hundred eighty-one thousand dollars ($481,000) is hereby appropriated from the Earthquake Safety and Public Buildings Rehabilitation Fund of 1990 to the Seismic Safety Commission for use during the 1991–92 and 1992–93 fiscal years for the purpose of the administration and disbursement of research funds for the purposes of the Earthquake Safety and Public Buildings Rehabilitation Bond Act of 1990 (Chapter 12.47 (commencing with Section 8878.50) of Division 1 of Title 2 of the Government Code), and in accordance with subdivision (d) of Section 8878.55 of the Government Code.

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

In order for the immediate commencement of the Proposition 122 earthquake hazards research program to begin so that research can be completed prior to and applied to the seismic retrofit of state and local government buildings and facilities, this act must take effect immediately.

CHAPTER 347

An act to amend Section 25500 of, and to add Section 25503.24 to, the Business and Professions Code, relating to alcoholic beverages.

[Approved by Governor August 29, 1991. Filed with Secretary of State August 30, 1991.]

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

SECTION 1. Section 25500 of the Business and Professions Code is amended to read:

25500. (a) No manufacturer, winegrower, manufacturer's agent, rectifier, California winegrower's agent, distiller, bottler, importer, or wholesaler, or any officer, director, or agent of any such person shall:

(1) Hold the ownership, directly or indirectly, of any interest in any on-sale license.

(2) Furnish, give, or lend any money or other thing of value, directly or indirectly, to, or guarantee the repayment of any loan or the fulfillment of any financial obligation of, any person engaged in operating, owning, or maintaining any on-sale premises where alcoholic beverages are sold for consumption on the premises.

(3) Own any interest, directly or indirectly, in the business, furniture, fixtures, refrigeration equipment, signs, except signs for interior use mentioned in subdivision (g) of Section 25503, or lease in or of any premises operated or maintained under any on-sale

license for the sale of alcoholic beverages for consumption on the premises where sold; or own any interest, directly or indirectly, in realty acquired after June 13, 1935, upon which on-sale premises are maintained unless the holding of the interest is permitted in accordance with rules of the department.

(b) This section does not apply to the holding by one person of a wholesaler's license and an on-sale license in counties not to exceed 15,000 population.

(c) This section does not apply to the financial or representative relationship between a manufacturer, winegrower, manufacturer's agent, rectifier, California winegrower's agent, distiller, bottler, importer, or wholesaler, or any officer, director, or agent of such person, and a person holding only one of the following types of licenses:

(1) On-sale general license for a bona fide club.

(2) Club license issued under Article 4 (commencing with Section 23425) of Chapter 3.

(3) Veterans' club license issued under Article 5 (commencing with Section 23450) of Chapter 3.

(4) On-sale license for boats, trains, sleeping cars, or airplanes where the alcoholic beverages produced or sold by the manufacturer, winegrower, manufacturer's agent, rectifier, California winegrower's agent, bottler, importer, or wholesaler or any officer, director, or agent of the person are not sold, furnished, or given, directly or indirectly to the on-sale licensee.

(d) This section does not apply to an employee of a licensee referred to in subdivision (a) who is a nonadministrative and nonsupervisorial employee.

(e) Nothing in this division prohibits the holder of any retail on-sale or off-sale license from purchasing, for fair consideration, advertising in any publication published by any manufacturer, winegrower, manufacturer's agent, rectifier, California winegrower's agent, distiller, bottler, importer, or wholesaler, or any person who directly or indirectly holds the ownership of any interest in the premises of the retail licensee.

SEC. 2. Section 25503.24 is added to the Business and Professions Code, to read:

25503.24. (a) Notwithstanding any other provision of this chapter, any manufacturer, winegrower, rectifier, distiller, distilled spirits wholesaler, or any officer, director, agent, or representative of any of those entities, may conduct market research and, in connection with that research, the entity conducting the market research may purchase from licensed off-sale retailers data regarding purchases and sales of alcoholic beverage products at the customary rates that those retailers sell similar data for nonalcoholic beverage products subject to the following limitations:

(1) No licensed retailer shall be obligated to purchase or sell the alcoholic beverage products of that manufacturer, winegrower, rectifier, or distiller.

(2) No retail premises shall participate in more than one research project conducted by any single manufacturer, winegrower, rectifier, distiller, or distilled spirits wholesaler during a calendar year. A research project may involve multiple onsite surveys.

(3) Nothing in this section shall allow a licensed retailer to require a manufacturer, winegrower, rectifier, distiller, or distilled spirits wholesaler to conduct any market research as a condition for selling alcoholic beverage products to that licensed retailer.

(b) Any holder of a beer manufacturer's license or winegrower's license who, through coercion or other illegal means, induces a holder of a beer or wine wholesaler's license to fulfill obligations entered into pursuant to subdivision (a) shall be guilty of a misdemeanor and shall be punished by imprisonment in the county jail not exceeding six months, or by a fine in any amount equal to the entire value of the market research or time involved in the project, plus ten thousand dollars ($10,000), or by both imprisonment and fine. The person shall also be subject to license revocation pursuant to Section 24200.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 348

An act to add Section 19829 to the Health and Safety Code, relating to building permits, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 29, 1991 Filed with Secretary of State August 30, 1991.]

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

SECTION 1. Section 19829 is added to the Health and Safety Code, to read:

19829. (a) Notwithstanding Section 35441 of the Government Code, if an application for a building permit is filed with a county prior to the vote on the incorporation of a new city, and a building permit is subsequently issued by the county prior to the effective date of the incorporation, and the property for which the building permit was issued is within the newly incorporated city limits, the

building permit shall remain valid for a period of 180 days from the date of issuance of the building permit. If a local ordinance enacted by a county prior to the date of the incorporation vote provides that building permits are valid for a shorter or longer period than 180 days from the date of issuance, or the county ordinance authorizes the extension of those building permits, that local ordinance applies to any building permit applied for prior to the date of the incorporation vote.

If the effective date of the incorporation is more than 90 days after the incorporation vote, the county may receive applications for, and issue, building permits for construction on property to be included within the corporate boundaries of the newly incorporated city. These building permits shall remain valid for a period of 180 days from the date of issuance.

(b) A building permit issued by a county for construction on real property subsequently annexed to a city shall remain valid for the life of the building permit, as issued. This subdivision does not apply to any city which has, by ordinance, expressly made this subdivision inapplicable to territory annexed to that city, unless the city initiated the annexation.

(c) The city of which the affected territory became a part may extend the life of a building permit as provided by this section. The city of which the affected territory became a part shall be responsible for the continuing enforcement of the county ordinance.

(d) All rights accorded the permittee by a building permit affected by this section may be exercised by the permittee or the successor in interest thereto in accordance with the applicable rules, regulations, and ordinances of the issuing agency which were in effect at the time the building permit was issued.

(e) This section does not apply to any incorporation or annexation which became effective prior to January 1, 1985.

(f) The section does not apply to any building permit which is suspended or revoked pursuant to any moratorium ordinance, or extension thereof, adopted under Section 65858 of the Government Code prior to the effective date of this section enacted at the 1991 portion of the 1991–92 Regular Session.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

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

In order to permit orderly development during the pendancy of

incorporation actions of new cities at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 349

An act to add and repeal Section 2705.6 of the Public Utilities Code, relating to water supplies, and making an appropriation therefor.

[Approved by Governor August 29, 1991. Filed with Secretary of State August 30, 1991.]

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

SECTION 1. Section 2705.6 is added to the Public Utilities Code, to read:

2705.6. (a) A mobilehome park which provides water service only to its tenants from water supplies and facilities which it owns, not otherwise dedicated to public service, is not a water corporation. However, that mobilehome park is subject to the jurisdiction of the commission to the extent that, if a tenant complains about the water rates charged or service provided by the mobilehome park, the commission shall determine, based on all the facts and circumstances, whether the rates charged are just and reasonable and whether the service provided is adequate.

(b) Complaints filed pursuant to subdivision (a) are subject to the provisions of this code and to the Rules of Practice and Procedure of the commission governing complaints and commission investigations.

(c) The commission may afford rate relief or may order the mobilehome park to improve its water supply, facilities, and services on those terms that it finds just and reasonable, or both.

(d) The public adviser created pursuant to Section 321 and necessary staff of the commission shall assist the complainant.

(e) This section shall remain in effect only until January 1, 1995, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1995, deletes or extends that date.

SEC. 2. The sum of sixty-six thousand five hundred dollars ($66,500) is hereby appropriated from the Public Utilities Commission Utilities Reimbursement Account in the General Fund to the Public Utilities Commission for expenditure in the 1991–92 fiscal year for the purposes of Section 2705.6 of the Public Utilities Code.

CHAPTER 350

An act to amend Section 8726 of, and to add Section 8774.5 to Article 5 (commencing with Section 8760) of Chapter 15 of Division 3 of, the Business and Professions Code, and to amend Section 66466 of the Government Code, relating to surveys.

[Approved by Governor August 29, 1991. Filed with Secretary of State August 30, 1991.]

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

SECTION 1. Section 8726 of the Business and Professions Code is amended to read:

8726. A person, including any person employed by the state or by a city, county, or city and county within the state, practices land surveying within the meaning of this chapter who, either in a public or private capacity, does or offers to do any one or more of the following:

(a) Locates, relocates, establishes, reestablishes, or retraces the alignment or elevation for any of the fixed works embraced within the practice of civil engineering, as described in Section 6731.

(b) Determines the configuration or contour of the earth's surface, or the position of fixed objects thereon or related thereto, by means of measuring lines and angles, and applying the principles of mathematics or photogrammetry.

(c) Locates, relocates, establishes, reestablishes, or retraces any property line or boundary of any parcel of land, right-of-way, easement, or alignment of those lines or boundaries.

(d) Makes any survey for the subdivision or resubdivision of any tract of land. For the purposes of this subdivision, the term "subdivision" or "resubdivision" shall be defined to include, but not limited to, the definition in the Subdivision Map Act (Division 2 (commencing with Section 66410) of Title 7 of the Government Code) or the Subdivided Lands Law (Chapter 1 (commencing with Section 11000) of Part 2 of Division 4 of this code).

(e) By the use of the principles of land surveying determines the position for any monument or reference point which marks a property line, boundary, or corner, or sets, resets, or replaces any such monument or reference point.

(f) Geodetic or cadastral surveying.

(g) Determines the information shown or to be shown on any map or document prepared or furnished in connection with any one or more of the functions described in subdivisions (a), (b), (c), (d), (e), and (f).

(h) Indicates, in any capacity or in any manner, by the use of the title "land surveyor" or by any other title or by any other representation that he or she practices or offers to practice land surveying in any of its branches.

(i) Procures or offers to procure land surveying work for himself, herself, or others.

(j) Manages, or conducts as manager, proprietor, or agent, any place of business from which land surveying work is solicited, performed, or practiced.

(k) Coordinates the work of professional, technical, or special consultants in connection with the activities authorized by this chapter.

(*l*) Determines the information shown or to be shown within the description of any deed, trust deed, or other title document prepared for the purpose of describing the limit of real property in connection with any one or more of the functions described in subdivisions (a) to (f), inclusive.

(m) Creates, prepares, or modifies electronic or computerized data in the performance of the activities described in subdivisions (a), (b), (c), (d), (e), (f), (k), and (*l*).

Any department or agency of the state or any city, county, or city and county which has an unregistered person in responsible charge of land surveying work on January 1, 1986, shall be exempt from the requirement that the person be licensed as a land surveyor until such time as the person currently in responsible charge is replaced.

The review, approval, or examination by a governmental entity of documents prepared or performed pursuant to this section shall be done by, or under the direct supervision of, a person authorized to practice land surveying.

SEC. 2. Section 8774.5 is added to Article 5 (commencing with Section 8760) of Chapter 15 of Division 3 of the Business and Professions Code, to read:

8774.5. (a) Upon the filing of a record of survey, amended record of survey, or certificate of correction for recordation pursuant to this chapter, the surveyor or engineer who prepared the document shall transmit a copy of the document, including all recording information, to the county surveyor, who shall maintain an index, by geographic location, of the documents.

(b) The county surveyor may charge a fee equal to the fee charged for recording the documents specified in subdivision (a), for purposes of financing the costs of maintaining the index of those documents.

(c) The requirements of this section shall not apply to any county which requires the documents specified in subdivision (a) to be transmitted to the county surveyor and requires that official to maintain an index of those documents.

SEC. 3. Section 66466 of the Government Code is amended to read:

66466. (a) The county recorder shall have not more than 10 days within which to examine a final or parcel map and either accept or reject it for filing.

(b) If the county recorder rejects a final or parcel map for filing, the county recorder shall, within 10 days thereafter, mail notice to

the subdivider and the city engineer if the map is within a city, or the county surveyor if the map is within the unincorporated area, that the map has been rejected for filing, giving the reasons therefor, and that the map is being returned to the city clerk if the map is within a city, or to the clerk of the board if the map is within the unincorporated area, for action by the legislative body. Upon receipt of the map, the clerk shall place the map on the agenda of the next regular meeting of the legislative body and the legislative body shall, within 15 days thereafter, rescind its approval of the map and return the map to the subdivider unless the subdivider presents evidence that the basis for the rejection by the county recorder has been removed. The subdivider may consent to a continuance of the matter; however, the prior approval of the legislative body shall be deemed rescinded during any period of continuance. If a map is returned to the county recorder, the county recorder shall have a new 10-day period to examine the map and either accept or reject it for filing.

(c) If the county recorder accepts the map for filing, the acceptance shall be certified on the face thereof. The map shall be securely fastened in a book of subdivision maps, in a book of parcel maps, or in a book of cities and towns which shall be kept for that purpose, or in any other manner as will assure that the maps will be kept together. The map shall become a part of the official records of the county recorder upon its acceptance by the county recorder for filing.

(d) The fee for filing and indexing the map is as prescribed in Section 27372 of the Government Code.

(e) The original map shall be stored for safekeeping in a reproducible condition. The county recorder may maintain for public reference a set of counter maps that are prints of the original maps and produce the original maps for comparison upon demand.

(f) Upon the filing of any map, including amended maps and certificates of correction for recordation pursuant to this section or any record of survey pursuant to the Professional Land Surveyors' Act (Chapter 15 (commencing with Section 8700) of Division 3 of the Business and Professions Code), the surveyor or engineer who prepared the document shall transmit a copy of the document, including all recording information, to the county surveyor, who shall maintain an index, by geographic location, of the documents. The county surveyor may charge a fee not to exceed the fee charged for recording the document, for purposes of financing the costs of maintaining the index of the documents.

The requirements of this subdivision shall not apply to any county which requires a document filed pursuant to this section to be transmitted to the county surveyor and requires that official to maintain an index of those documents.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the local agency or school district has the authority to levy service

charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 351

An act to amend Section 4804 of the Public Utilities Code, relating to motor transportation brokers.

[Approved by Governor August 29, 1991 Filed with Secretary of State August 30, 1991]

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

SECTION 1. Section 4804 of the Public Utilities Code is amended to read:

4804. As used in this chapter, "brokerage" or "brokerage service" means the act of arranging , for compensation, the transportation of property by a motor carrier over the highways of this state for or on behalf of a shipper, a consignor, or a consignee.

CHAPTER 352

An act to amend Sections 2815, 2815.1, 2815.5, 2831, and 2833 of, and to add Sections 2815.7 and 2830.7 to, the Business and Professions Code, relating to nurses, and making an appropriation therefor.

[Approved by Governor August 29, 1991. Filed with Secretary of State August 30, 1991]

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

SECTION 1. Section 2815 of the Business and Professions Code is amended to read:

2815. Subject to the provisions of Section 128.5, the amount of the fees prescribed by this chapter in connection with the issuance of licenses for registered nurses under its provisions is that fixed by the following schedule:

(a) The fee to be paid upon the filing of an application for a licensure by examination shall be fixed by the board at not less than seventy-five dollars ($75) nor more than one hundred fifty dollars ($150).

(b) The fee to be paid for taking each examination shall be the actual cost to purchase an examination from a vendor approved by the board.

(c) The fee to be paid for application for licensure by endorsement shall be fixed by the board at not less than fifty dollars ($50) nor more than one hundred dollars ($100).

(d) The biennial fee to be paid upon the filing of an application for renewal of the license shall be not less than seventy-five dollars ($75) nor more than one hundred fifty dollars ($150). In addition, an assessment of five dollars ($5) shall be collected and credited to the Registered Nurse Education Fund, pursuant to Section 2815.1.

(e) The penalty fee for failure to renew a license within the prescribed time shall be fixed by the board at not more than 50 percent of the regular renewal fee, but not less than thirty-seven dollars ($37) nor more than seventy-five dollars ($75).

(f) The fee to be paid for approval of a continuing education provider shall be fixed by the board at not less than two hundred dollars ($200) nor more than three hundred dollars ($300).

(g) The biennial fee to be paid upon the filing of an application for renewal of provider approval shall be fixed by the board at not less than two hundred dollars ($200) nor more than three hundred dollars ($300).

(h) The penalty fee for failure to renew provider approval within the prescribed time shall be fixed at not more than 50 percent of the regular renewal fee, but not less than one hundred dollars ($100) nor more than one hundred fifty dollars ($150).

(i) The penalty for submitting insufficient funds or fictitious check, draft or order on any bank or depository for payment of any fee to the board shall be fixed at not less than fifteen dollars ($15) nor more than thirty dollars ($30).

(j) The fee to be paid for an interim permit shall be fixed by the board at not less than thirty dollars ($30) nor more than fifty dollars ($50).

(k) The fee to be paid for a temporary license shall be fixed by the board at not less than thirty dollars ($30) nor more than fifty dollars ($50).

(*l*) The fee to be paid for processing endorsement papers to other states shall be fixed by the board at not less than sixty dollars ($60) nor more than one hundred dollars ($100).

(m) The fee to be paid for a certified copy of a school transcript shall be fixed by the board at not less than thirty dollars ($30) nor more than fifty dollars ($50).

(n) The fee to be paid for a duplicate license shall be fixed by the board at not less than thirty dollars ($30) nor more than fifty dollars ($50).

(o) The fee to be paid by a registered nurse for an evaluation of his or her qualifications to use the title "nurse practitioner" shall be fixed by the board at not less than seventy-five dollars ($75) nor more than one hundred fifty dollars ($150).

No further fee shall be required for a license or a renewal thereof other than as prescribed by this chapter.

SEC. 2. Section 2815.1 of the Business and Professions Code is

amended to read:

2815.1. As provided in subdivision (d) of Section 2815, the Board of Registered Nursing shall collect an additional five dollar ($5) assessment at the time of the biennial licensure renewal. This amount shall be credited to the Registered Nurse Education Fund. This assessment is separate from those fees prescribed in Section 2815.

This section shall remain in effect only until January 1, 2000, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 2000, deletes or extends that date.

SEC. 3. Section 2815.5 of the Business and Professions Code is amended to read:

2815.5. The amount of the fees prescribed by this chapter in connection with the issuance of certificates as nurse-midwives is that fixed by the following schedule:

(a) The fee to be paid upon the filing of an application for a certificate shall be fixed by the board at not less than seventy-five dollars ($75) nor more than one hundred fifty dollars ($150).

(b) The biennial fee to be paid upon the application for a renewal of a certificate shall be fixed by the board at not less than fifty dollars ($50) nor more than one hundred dollars ($100).

(c) The penalty fee for failure to renew a certificate within the prescribed time shall be 50 percent of the renewal fee in effect on the date of the renewal of the license, but not less than twenty-five dollars ($25) nor more than fifty dollars ($50).

(d) The fee to be paid upon the filing of an application for the nurse-midwife equivalency examination shall be fixed by the board at not less than one hundred dollars ($100) nor more than two hundred dollars ($200).

SEC. 4. Section 2815.7 is added to the Business and Professions Code, to read:

2815.7. The board shall report to the appropriate policy and fiscal committees of each house of the Legislature whenever the board proposes or adopts an increase in any fee imposed pursuant to this chapter. The board shall specify the reasons for each fee increase and shall identify the percentage of the funds derived from an increase in any fee that will be used for investigational or enforcement related activities by the board.

SEC. 4.5. Section 2830.7 is added to the Business and Professions Code, to read:

2830.7. The amount of the fees prescribed by this chapter in connection with the issuance of certificates as nurse anesthetists is that fixed by the following schedule:

(a) The fee to be paid upon the filing of an application for a certificate shall be fixed by the board at not less than seventy-five dollars ($75) nor more than one hundred fifty dollars ($150).

(b) The biennial fee to be paid upon the application for a renewal of a certificate shall be fixed by the board at not less than fifty dollars ($50) nor more than one hundred dollars ($100).

(c) The penalty fee for failure to renew a certificate within the prescribed time shall be 50 percent of the renewal fee in effect on the date of the renewal of the license, but not less than twenty-five dollars ($25) nor more than fifty dollars ($50).

SEC. 5. Section 2831 of the Business and Professions Code is amended to read:

2831. An applicant for certification pursuant to this article shall submit a written application in the form prescribed by the board, accompanied by the fee prescribed by Section 2830.7 which shall also apply to the issuance of a certificate under the provisions of this article.

SEC. 6. Section 2833 of the Business and Professions Code is amended to read:

2833. Each certificate issued pursuant to this article shall be renewable biennially, and each person holding a certificate under this article shall apply for a renewal of his or her certificate and pay the biennial renewal fee required by Section 2830.7 every two years on or before the last day of the month following the month in which his or her birthday occurs, beginning with the second birthday following the date on which the certificate was issued, whereupon the board shall renew the certificate.

Each certificate not renewed in accordance with this section shall expire but may within a period of eight years thereafter be reinstated upon payment of the biennial renewal fee and penalty fee required by Section 2830.7 and upon submission of such proof of the applicant's qualifications as may be required by the board, except that during that eight-year period no examination shall be required as a condition for the reinstatement of any expired certificate which has lapsed solely by reason of nonpayment of the renewable fee. After the expiration of the eight-year period the board may require as a condition of reinstatement that the applicant pass an examination as it deems necessary to determine his or her present fitness to resume the practice of nurse anesthesia.

SEC. 7. The Board of Registered Nursing shall report to the Legislature on the condition of the Board of Registered Nursing Fund on or before July 1, 1992. The report shall include the fees increased by this act, the fund surplus created by the fee increases authorized by this act, and a projection of when fees will be required to be increased again.

CHAPTER 353

An act to amend Sections 60001 and 60200 of the Education Code, relating to education.

[Approved by Governor August 29, 1991. Filed with Secretary of State August 30, 1991.]

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

SECTION 1. Section 60001 of the Education Code is amended to read:

60001. For the purposes of any provision of the California Constitution that requires the adoption of textbooks for use in the elementary schools, the state board, subject to the provisions of this division, shall adopt at least five separate series of textbooks or instructional materials systems for any of the several courses offered in the elementary schools, or for any combination of those courses. For these purposes the term "elementary schools" shall have the meaning prescribed by Section 60024.

SEC. 2. Section 60200 of the Education Code is amended to read:

60200. The state board shall adopt basic instructional materials for use in kindergarten and grades 1 to 8, inclusive, for governing boards, subject to the following provisions:

(a) The state board shall adopt at least five basic instructional materials for all applicable grade levels in each of the following categories:

(1) Language arts.

(2) Mathematics.

(3) Reading.

(4) Science.

(5) Social science.

(6) Bilingual or bicultural subjects.

(7) Any other subject, discipline, or interdisciplinary areas for which the state board determines the adoption of instructional materials to be necessary or desirable.

(b) The state board shall adopt any of the following for basic instructional materials in each subject in each grade:

(1) Instructional materials.

(2) Instructional materials systems.

(3) Instructional materials sets.

(4) A combination of instructional materials, instructional materials systems, and instructional materials sets, as the state board may select.

(c) The state board shall adopt procedures for the submission of basic instructional materials in order to comply with each of the following:

(1) Instructional materials may be submitted for adoption in any of the subject areas pursuant to subdivision (a) at least every two

years so that there will be submissions in each subject consistent with the framework cycles established by the state board. The state board may prescribe reasonable conditions to restrict the resubmission of materials that have been previously rejected if those resubmitted materials have no substantive changes.

(2) Submitted instructional materials shall be adopted or rejected within six months of the submission date of the materials pursuant to paragraph (1), unless the state board determines that a longer period of time, not to exceed an additional three months, is necessary due to the estimated volume or complexity of the materials for that subject in that year, or due to other circumstances beyond the reasonable control of the state board.

(d) In reviewing and adopting or recommending for adoption submitted basic instructional materials, the state board and its appropriate advisers and advisory groups shall use, and ensure that, in its judgment, all of the following conditions are met:

(1) The submitted basic instructional materials are consistent with the criteria and the standards of quality prescribed in the state board's adopted curriculum framework. In making this determination, the state board shall consider both the framework and the submitted instructional materials as a whole.

(2) The submitted basic instructional materials comply with the requirements of Sections 60040, 60041, 60042, 60043, 60044, 60200.5, and 60200.6, and the state board's guidelines for social content.

(3) The submitted instructional materials are factually accurate and incorporate principals of instruction reflective of current and confirmed research.

(4) The submitted instructional materials adequately cover the subject area for the grade level or levels for which they are submitted.

(5) The submitted instructional materials meet other criteria as are established by the state board as being necessary to accomplish the intent of Section 7.5 of Article IX of the California Constitution and of Section 1 of this act, provided that the criteria are approved by resolution at the time the resolution adopting the framework for the current adoption is approved, or at least 30 months prior to the date that the materials are to be approved for adoption.

(e) If basic instructional materials are rejected, the state board shall provide a specific, written explanation of the reasons why the submitted materials were not adopted, based upon one or more of the criteria established under subdivision (d). In providing this explanation, the state board may use, in whole or in part, materials written by the commission or any other advisers to the state board.

(f) The state board may adopt fewer than five basic instructional materials in each subject area for each grade level if either of the following occurs:

(1) Fewer than five basic instructional materials are submitted.

(2) The state board specifically finds that fewer than five basic instructional materials meet the criteria prescribed by paragraphs

(1) to (5), inclusive, of subdivision (d), or the materials fail to meet the state board's adopted curriculum framework. In the event that the state board adopts fewer than five basic instructional materials in any subject for any grade level, the state board shall conduct a review of the degree to which the criteria and procedures used to evaluate the submitted materials for that adoption were consistent with the state board's adopted curriculum framework.

(g) Nothing in this section shall limit the authority of the state board to adopt materials that are not basic instructional materials.

(h) In the event that a district board establishes to the satisfaction of the state board that the state-adopted instructional materials do not promote the maximum efficiency of pupil learning in the district, the state board shall authorize that district board to use its instructional materials allowances to purchase materials as specified by the state board, in accordance with standards and procedures established by the state board.

(i) Consistent with the quality criteria for the state board's adopted curriculum framework, the state board shall prescribe procedures to provide the most open and flexible materials submission system and ensure that the adopted materials in each subject, taken as a whole, provide for the educational needs of the diverse pupil populations in the public schools, provide collections of instructional materials that illustrate diverse points of view, represent cultural pluralism, and provide a broad spectrum of knowledge, information, and media to meet the goals of the program and the needs of pupils.

(j) Upon making an adoption, the state board shall make available to listed publishers and manufacturers and all school interests a listing of instructional materials, including the most current unit cost of those materials as computed pursuant to subdivision (b) of Section 60222 and Section 60223. Items placed upon lists shall remain thereon, and be available for procurement through the state's systems of financing, for a period beginning with the date of the adoption of the item and ending on a date established by the state board as being not less than 30 months after the state board's approval of the curriculum framework that will succeed the framework on which the current adoption is based. All previous adoptions shall be integrated on lists and made available by subject and grade level. The lists shall terminate and shall no longer be effective on the date prescribed by the state board pursuant to this subdivision.

(k) The state board may approve multiple lists of instructional materials, without designating a grade or subject, and the state board may designate more than one grade or subject whenever it determines that a single subject designation or a single grade designation would not promote the maximum efficiency of pupil learning. Any materials so designated may be placed on single grade or single subject lists, or multigrade or interdisciplinary lists, or may be placed on separate lists including other materials with similar

grade or subject designations.

(*l*) A composite listing in the format of an order form may be used to meet the requirements of this section.

(m) The lists maintained pursuant to this section shall not be deemed to control the use period by any local district.

(n) Upon making an adoption, the state board shall establish the date upon which those adopted materials shall initially be available for use by schools.

SEC. 2.5. Section 60200 of the Education Code is amended to read:

60200. The state board shall adopt basic instructional materials for use in kindergarten and grades 1 to 8, inclusive, for governing boards, subject to the following provisions:

(a) The state board shall adopt at least five basic instructional materials for all applicable grade levels in each of the following categories:

(1) Language arts.

(2) Mathematics.

(3) Reading.

(4) Science.

(5) Social science.

(6) Bilingual or bicultural subjects.

(7) Any other subject, discipline, or interdisciplinary areas for which the state board determines the adoption of instructional materials to be necessary or desirable.

(b) The state board shall adopt any of the following for basic instructional materials in each subject in each grade:

(1) Instructional materials.

(2) Instructional materials systems.

(3) Instructional materials sets.

(4) A combination of instructional materials, instructional materials systems, and instructional materials sets, as the state board may select.

(c) The state board shall adopt procedures for the submission of basic instructional materials in order to comply with each of the following:

(1) Instructional materials may be submitted for adoption in any of the subject areas pursuant to subdivision (a) at least every two years so that there will be submissions in each subject consistent with the framework cycles established by the state board. The state board may prescribe reasonable conditions to restrict the resubmission of materials that have been previously rejected if those resubmitted materials have no substantive changes.

(2) Submitted instructional materials shall be adopted or rejected within six months of the submission date of the materials pursuant to paragraph (1), unless the state board determines that a longer period of time, not to exceed an additional three months, is necessary due to the estimated volume or complexity of the materials for that subject in that year, or due to other circumstances beyond the

reasonable control of the state board.

(d) In reviewing and adopting or recommending for adoption submitted basic instructional materials, the state board and its appropriate advisers and advisory groups shall use, and ensure that, in its judgment, all of the following conditions are met:

(1) The submitted basic instructional materials are consistent with the criteria and the standards of quality prescribed in the state board's adopted curriculum framework. In making this determination, the state board shall consider both the framework and the submitted instructional materials as a whole.

(2) The submitted basic instructional materials comply with the requirements of Sections 60040, 60041, 60042, 60043, 60044, 60200.5, and 60200.6, and the state board's guidelines for social content.

(3) The submitted instructional materials are factually accurate and incorporate principals of instruction reflective of current and confirmed research.

(4) The submitted instructional materials adequately cover the subject area for the grade level or levels for which they are submitted.

(5) The submitted instructional materials meet other criteria as are established by the state board as being necessary to accomplish the intent of Section 7.5 of Article IX of the California Constitution and of Section 1 of this act, provided that the criteria are approved by resolution at the time the resolution adopting the framework for the current adoption is approved, or at least 30 months prior to the date that the materials are to be approved for adoption.

(e) If basic instructional materials are rejected, the state board shall provide a specific, written explanation of the reasons why the submitted materials were not adopted, based upon one or more of the criteria established under subdivision (d). In providing this explanation, the state board may use, in whole or in part, materials written by the commission or any other advisers to the state board.

(f) The state board may adopt fewer than five basic instructional materials in each subject area for each grade level if either of the following occurs:

(1) Fewer than five basic instructional materials are submitted.

(2) The state board specifically finds that fewer than five basic instructional materials meet the criteria prescribed by paragraphs (1) to (5), inclusive, of subdivision (d) , or the materials fail to meet the state board's adopted curriculum framework. In the event that the state board adopts fewer than five basic instructional materials in any subject for any grade level, the state board shall conduct a review of the degree to which the criteria and procedures used to evaluate the submitted materials for that adoption were consistent with the state board's adopted curriculum framework.

(g) Nothing in this section shall limit the authority of the state board to adopt materials that are not basic instructional materials.

(h) In the event that a district board establishes to the satisfaction of the state board that the state-adopted instructional materials do

not promote the maximum efficiency of pupil learning in the district, the state board shall authorize that district board to use its instructional materials allowances to purchase materials as specified by the state board, in accordance with standards and procedures established by the state board.

(i) Consistent with the quality criteria for the state board's adopted curriculum framework, the state board shall prescribe procedures to provide the most open and flexible materials submission system and ensure that the adopted materials in each subject, taken as a whole, provide for the educational needs of the diverse pupil populations in the public schools, provide collections of instructional materials that illustrate diverse points of view, represent cultural pluralism, and provide a broad spectrum of knowledge, information, and technology-based materials to meet the goals of the program and the needs of pupils.

(j) Upon making an adoption, the state board shall make available to listed publishers and manufacturers and all school interests a listing of instructional materials, including the most current unit cost of those materials as computed pursuant to subdivision (b) of Section 60222 and Section 60223. Items placed upon lists shall remain thereon, and be available for procurement through the state's systems of financing, for a period beginning with the date of the adoption of the item and ending on a date established by the state board as being not less than 30 months after the state board's approval of the curriculum framework that will succeed the framework on which the current adoption is based. All previous adoptions shall be integrated on lists and made available by subject and grade level. The lists shall terminate and shall no longer be effective on the date prescribed by the state board pursuant to this subdivision.

(k) The state board may approve multiple lists of instructional materials, without designating a grade or subject, and the state board may designate more than one grade or subject whenever it determines that a single subject designation or a single grade designation would not promote the maximum efficiency of pupil learning. Any materials so designated may be placed on single grade or single subject lists, or multigrade or interdisciplinary lists, or may be placed on separate lists including other materials with similar grade or subject designations.

(*l*) A composite listing in the format of an order form may be used to meet the requirements of this section.

(m) The lists maintained pursuant to this section shall not be deemed to control the use period by any local district.

(n) Upon making an adoption, the state board shall establish the date upon which those adopted materials shall initially be available for use by schools.

SEC. 3. Section 2.5 of this bill incorporates amendments to Section 60200 of the Education Code proposed by both this bill and SB 1008. It shall only become operative if (1) both bills are enacted

and become effective on January 1, 1992, (2) each bill amends Section 60200 of the Education Code, and (3) this bill is enacted after SB 1008, in which case Section 2 of this bill shall not become operative.

CHAPTER 354

An act to amend and repeal Section 66413.5 of the Government Code, relating to subdivisions.

[Approved by Governor August 29, 1991. Filed with Secretary of State August 30, 1991.]

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

SECTION 1. Section 66413.5 of the Government Code is amended to read:

66413.5. (a) When any area in a subdivision or proposed subdivision as to which a tentative map meeting the criteria of this section has been approved by a board of supervisors is incorporated into a newly incorporated city, the newly incorporated city shall approve the final map if it meets all of the conditions of the tentative map, meets the requirements and conditions for approval of the final map as provided in Article 4 (commencing with Section 66456) of Chapter 3, other requirements of this division, and the county's subdivision ordinance.

(b) When any area in a subdivision or proposed subdivision as to which a vesting tentative map meeting the criteria of this section has been approved by a board of supervisors is incorporated into a newly incorporated city, the newly incorporated city shall approve the final map and shall give effect to the vesting tentative map as provided in Chapter 4.5 (commencing with Section 66498.1) if the final map meets all of the conditions of the vesting tentative map, meets the requirements and conditions for approval of the final map as provided in Article 4 (commencing with Section 66456) of Chapter 3, Chapter 4.5 (commencing with Section 66498.1), other requirements of this division, and the county's subdivision ordinance.

(c) Notwithstanding subdivisions (a) and (b), the newly incorporated city may condition or deny a permit, approval, or extension, or entitlement if it determines any of the following:

(1) A failure to do so would place the residents of the subdivision or the immediate community, or both, in a condition dangerous to their health or safety, or both.

(2) The condition or denial is required, in order to comply with state or federal law.

(d) The rights conferred by this section shall expire if a final map is not approved prior to the expiration of the tentative map or of the vesting tentative map. If the final map is approved, the rights

conferred by this section shall be subject to the periods of time set forth in Section 66452.6, but shall not exceed eight years from the date of incorporation unless an applicant and the newly incorporated city mutually agree to a longer period provided by this division.

(e) An approved tentative map or vesting tentative map shall not limit a newly incorporated city from imposing reasonable conditions on subsequent required approvals or permits necessary for the development, and authorized by the ordinances, policies, and standards described in Section 66474.2.

(f) Except as otherwise provided in subdivision (g) or (h), this section applies to any approved tentative map or approved vesting tentative map which meets both of the following requirements:

(1) The application for the tentative map or the vesting tentative map is submitted prior to the date that the first signature was affixed to the petition for incorporation pursuant to Section 56704, regardless of the validity of the first signature, or the adoption of the resolution pursuant to Section 56800, whichever occurs first.

(2) The county approves the tentative map or the vesting tentative map prior to the date of the election on the question of incorporation.

(g) This section does not apply to any territory for which the effective date of the incorporation is prior to January 1, 1989.

(h) This section does not apply to any subdivision subject to Section 66427.1 and it is not the intent of the Legislature to influence or affect any litigation pending on December 31, 1988.

(i) This section shall remain in effect only until January 1, 1995, and as of that date is repealed, unless a later enacted statute, which is enacted before that date, deletes or extends that date.

CHAPTER 355

An act to amend Sections 1365.5 and 1366 of the Civil Code, relating to common interest developments.

[Approved by Governor August 29, 1991. Filed with Secretary of State August 30, 1991.]

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

SECTION 1. Section 1365.5 of the Civil Code is amended to read:

1365.5. (a) Unless the governing documents impose more stringent standards, the board of directors of the association shall do all of the following:

(1) Review a current reconciliation of the association's operating accounts on at least a quarterly basis.

(2) Review a current reconciliation of the association's reserve accounts on at least a quarterly basis.

(3) Review, on at least a quarterly basis, the current year's actual

reserve revenues and expenses compared to the current year's budget.

(4) Review the latest account statements prepared by the financial institutions where the association has its operating and reserve accounts.

(5) Review an income and expense statement for the association's operating and reserve accounts on at least a quarterly basis.

(b) The signatures of at least two persons, who shall be members of the association's board of directors, or one officer who is not a member of the board of directors and a member of the board of directors, shall be required for the withdrawal of moneys from the association's reserve accounts.

(c) The board of directors shall not expend funds designated as reserve funds for any purpose other than the repair, restoration, replacement, or maintenance of, or litigation involving the repair, restoration, replacement, or maintenance of, major components which the association is obligated to repair, restore, replace, or maintain and for which the reserve fund was established. However, the board may authorize the temporary transfer of money from a reserve fund to the association's general operating fund to meet short-term cash-flow requirements or other expenses. The transferred funds shall be restored to the reserve fund within three years of the date of the initial transfer, except that the board may, upon making a finding supported by documentation that a delay would be in the best interests of the common interest development, delay the restoration until the time which the board reasonably determines to be necessary. The board shall exercise prudent fiscal management in delaying restoration of these funds and in restoring the expended funds to the reserve account, and shall, if necessary, levy a special assessment to recover the full amount of the expended funds within the time limits required by this section. This special assessment is not subject to the limitation imposed by Section 1366.

(d) At least once every three years the board of directors shall cause a study of the reserve account requirements of the common interest development to be conducted if the current replacement value of the major components which the association is obligated to repair, replace, restore, or maintain is equal to or greater than one-half of the gross budget of the association for any fiscal year. The board shall review this study annually and shall consider and implement necessary adjustments to the board's analysis of the reserve account requirements as a result of that review.

The study required by this subdivision shall at a minimum include:

(1) Identification of the major components which the association is obligated to repair, replace, restore, or maintain which, as of the date of the study, have a remaining useful life of less than 30 years.

(2) Identification of the probable remaining useful life of the components identified in paragraph (1) as of the date of the study.

(3) An estimate of the cost of repair, replacement, restoration, or maintenance of each major component identified in paragraph (1)

during and at the end of its useful life.

(4) An estimate of the total annual contribution necessary to defray the cost to repair, replace, restore, or maintain each major component during and at the end of its useful life, after subtracting total reserve funds as of the date of the study.

(e) As used in this section, "reserve accounts" means moneys that the association's board of directors has identified for use to defray the future repair or replacement of, or additions to, those major components which the association is obligated to maintain.

(f) As used in this section, "reserve account requirements" means the estimated funds which the association's board of directors has determined are required to be available at a specified point in time to repair, replace, or restore those major components which the association is obligated to maintain.

(g) This section does not apply to an association that does not have a "common area" as defined in Section 1351.

SEC. 2. Section 1366 of the Civil Code is amended to read:

1366. (a) Except as provided in this section, the association shall levy regular and special assessments sufficient to perform its obligations under the governing documents and this title. However, annual increases in regular assessments for any fiscal year, as authorized by subdivision (b), shall not be imposed unless the board has complied with subdivision (a) of Section 1365 with respect to that fiscal year, or has obtained the approval of owners, constituting a quorum, casting a majority of the votes at a meeting or election of the association conducted in accordance with Chapter 5 (commencing with Section 7510) of Part 3 of Division 2 of Title 1 of the Corporations Code and Section 7613 of the Corporations Code. For the purposes of this section, "quorum" means more than 50 percent of the owners of an association.

(b) Notwithstanding more restrictive limitations placed on the board by the governing documents, the board of directors may not impose a regular assessment that is more than 20 percent greater than the regular assessment for the association's preceding fiscal year, or impose special assessments which in the aggregate exceed 5 percent of the budgeted gross expenses of the association for that fiscal year without the approval of owners, constituting a quorum, casting a majority of the votes at a meeting or election of the association conducted in accordance with Chapter 5 (commencing with Section 7510) of Part 3 of Division 2 of Title 1 of the Corporations Code and Section 7613 of the Corporations Code. A special assessment imposed pursuant to subdivision (c) of Section 1365.5 is not subject to the 5 percent limitation imposed pursuant to this subdivision. For the purposes of this section, quorum means more than 50 percent of the owners of an association. This section does not limit assessment increases necessary for emergency situations. For purposes of this section, an emergency situation is any one of the following:

(1) An extraordinary expense required by an order of a court.

(2) An extraordinary expense necessary to repair or maintain the common interest development or any part of it for which the association is responsible where a threat to personal safety on the property is discovered.

(3) An extraordinary expense necessary to repair or maintain the common interest development or any part of it for which the association is responsible that could not have been reasonably foreseen by the board in preparing and distributing the pro forma operating budget under Section 1365. However, prior to the imposition or collection of an assessment under this subdivision, the board shall pass a resolution containing written findings as to the necessity of the extraordinary expense involved and why the expense was not or could not have been reasonably foreseen in the budgeting process, and the resolution shall be distributed to the members with the notice of assessment.

(c) Regular and special assessments levied pursuant to the governing documents are delinquent 15 days after they become due. If an assessment is delinquent the association may recover all of the following:

(1) Reasonable costs incurred in collecting the delinquent assessment, including reasonable attorney's fees.

(2) A late charge not exceeding 10 percent of the delinquent assessment or ten dollars ($10), whichever is greater, unless the declaration specifies a late charge in a smaller amount, in which case any late charge imposed shall not exceed the amount specified in the declaration.

(3) Interest on all sums imposed in accordance with this section, including the delinquent assessment, reasonable costs of collection, and late charges, at an annual percentage rate not to exceed 12 percent interest, commencing 30 days after the assessment becomes due.

(d) Associations are hereby exempted from interest rate limitations imposed by Article XV of the California Constitution, subject to the limitations of this section.

CHAPTER 356

An act to amend Section 5694.7 of the Welfare and Institutions Code, relating to mental health.

[Approved by Governor August 29, 1991. Filed with Secretary of State August 30, 1991]

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

SECTION 1. Section 5694.7 of the Welfare and Institutions Code is amended to read:

5694.7. When the director of mental health in a county is notified

pursuant to Section 319.1 or 635.1, or Section 7572.5 of the Government Code about a specific case, the county mental health director shall assign the responsibility either directly or through contract with a private provider, to review the information and assess whether or not the child is seriously emotionally disturbed as well as to determine the level of involvement in the case needed to assure access to appropriate mental health treatment services and whether appropriate treatment is available through the minor's own resources, those of the family or another private party, including a third-party payer, or through another agency, and to ensure access to services available within the county's program. This determination shall be submitted in writing to the notifying agency within 30 days. If in the course of evaluating the minor, the county mental health director determines that the minor may be dangerous, the county mental health director may request the court to direct counsel not to reveal information to the minor relating to the name and address of the person who prepared the subject report. If appropriate treatment is not available within the county's Bronzan-McCorquodale program, nothing in this section shall prevent the court from ordering treatment directly or through a family's private resources.

CHAPTER 357

An act to add Section 14036.6 to the Government Code, relating to transportation.

[Approved by Governor August 29, 1991. Filed with Secretary of State August 30, 1991.]

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

SECTION 1. Section 14036.6 is added to the Government Code, to read:

14036.6. (a) The Legislature finds and declares all of the following:

(1) Rail passes offering unlimited travel on certain passenger rail and associated transit services for a specified period of time and a fixed price have been a success in Europe, Canada, and Alaska.

(2) A "California Pass," valid on state-funded intercity and commuter rail lines, state-funded feeder buses, and major local transit systems would be a major benefit to tourism, while at the same time providing a package of transportation options which do not worsen highway congestion.

(3) Use of a single payment mechanism makes existing mass transportation services easier to use, by eliminating the need for familiarity with multiple complex tariffs and the need for correct change.

(b) The department shall investigate, and if feasible implement, a "California Pass" which would be valid, to the extent possible, for all of the following transportation services:

(1) State-funded intercity rail services in the San Diego-Los Angeles, Los Angeles-Santa Barbara, Los Angeles-Fresno-bay area/Sacramento, and Sacramento-bay area rail corridors.

(2) State-funded feeder buses operated in conjunction with the intercity rail services, including, but not limited to, the service operated between Merced and Yosemite National Park for the San Joaquin trains.

(3) Commuter rail services.

(4) Public transit services.

(5) Other transportation services.

(c) The department shall consider offering passes valid for travel over a specified consecutive number of days, as well as so-called "flexi-passes" valid for a specified number of days within a longer period of time. In addition, the department shall develop a procedure for distributing pass revenues to each participating operating entity, and for marketing the pass to prospective users.

(d) Prior to implementing a "California Pass" program, the department shall consult with each participating operating entity. The department shall not adopt procedures for the distribution of pass revenues without first submitting the proposed procedures to each affected operating entity.

(e) The department shall submit a report to the Legislature by April 1, 1992, on its activities pursuant to this section.

(f) Nothing in this section precludes the department from implementing, as an interim measure, any marketing device to increase ridership on state-funded rail and bus services.

CHAPTER 358

An act to amend Section 5110 of, and to add Section 5101.4 to the Vehicle Code, relating to, vehicles.

[Approved by Governor August 29, 1991. Filed with Secretary of State August 30, 1991.]

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

SECTION 1. Section 5101.4 is added to the Vehicle Code, to read:

5101.4. (a) Any person otherwise eligible under this article who is a recipient of the Army Medal of Honor, Navy Medal of Honor, Air Force Medal of Honor, Army Distinguished Service Cross, Navy Cross, or Air Force Cross may apply for special license plates for the vehicle under this article.

(b) The applicant shall, by conclusive evidence, show that the applicant is a recipient of the nation's highest decoration for valor,

as specified in subdivision (a).

(c) The special plates issued under this section shall contain the words "Legion of Valor" and shall run in a regular numerical series. An adhesive sticker denoting which of the nation's highest decorations for valor, as specified in subdivision (a), held by the applicant shall be affixed in a recess provided for it on the plates.

(d) (1) A fee of thirty-five dollars ($35) shall be charged for the initial issuance of the special plates. These plates shall be permanent and shall not be required to be replaced.

(2) If the plates become damaged or unserviceable, replacement of the plates may be obtained from the department upon proper application and payment of a fee of thirty-five dollars ($35).

(3) A vehicle bearing special plates issued under this section is subject to the same annual registration fees as are other vehicles.

(4) The fee for the replacement of an adhesive sticker which has become damaged or unserviceable is seven dollars ($7).

(5) A fee of fifteen dollars ($15) shall be charged for the transfer of the plates to another vehicle qualifying as a vehicle owned by the holder of the nation's highest decoration for valor, as specified in subdivision (a).

SEC. 2. Section 5110 of the Vehicle Code is amended to read:

5110. (a) The director may adopt rules and regulations as necessary to carry out the purposes of this article.

(b) Whenever two or more separate series of special plates are authorized under this article in a period of one year, the director shall coordinate the administrative and technical procedures for preparation and issuance of the plates in order to control costs to the maximum extent.

CHAPTER 359

An act to amend Sections 101, 130, 154.5, 656, 800, 801, 805, 805.1, 805.5, 2064.1, 2099.5, 2154, 2275, 2360, 2361, 2368, 2401, 2413, 2450, 2451, 2452, 2454, 2455, 2456, 2457, 2458, 2459, 2545, 3535, 3600, 4033, 4047.7, and 4051 of the Business and Professions Code, to amend Sections 44873 and 87356 of the Education Code, to amend Sections 11501 and 26509 of the Government Code, to amend Sections 7187 and 32128 of the Health and Safety Code, and to amend an initiative act entitled "An act to establish a board of osteopathic examiners, to provide for their appointment, and to prescribe their powers and duties; to regulate the examination of applicants, who are graduates of osteopathic schools, for any form of certificate to treat disease, injuries, deformities, or other physical or mental conditions; to regulate the practice of those so licensed, who are graduates of osteopathic schools; to impose upon said board of osteopathic examiners all duties and functions, relating to graduates of osteopathic schools, holding or applying for any form of certificate or

license, heretofore exercised and performed by the board of medical examiners of the State of California under the provisions of the state medical practice act, approved June 2, 1913, and acts amendatory thereof" approved by electors November 7, 1922, by amending Sections 1, 1.5, 2, 3, and 5 thereof, relating to osteopathic medicine.

[Approved by Governor August 29, 1991. Filed with Secretary of State August 30, 1991.]

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

SECTION 1. Section 101 of the Business and Professions Code is amended to read:

101. The department is composed of:

(a) The Board of Dental Examiners of California.

(b) The Medical Board of California.

(c) The State Board of Optometry.

(d) The California State Board of Pharmacy.

(e) The Board of Examiners in Veterinary Medicine.

(f) The State Board of Accountancy.

(g) The California State Board of Architectural Examiners.

(h) The State Board of Barber Examiners.

(i) The State Board of Registration for Professional Engineers and Land Surveyors.

(j) The Contractors' State License Board.

(k) The State Board of Cosmetology.

(*l*) The State Board of Funeral Directors and Embalmers.

(m) The Structural Pest Control Board.

(n) The Bureau of Home Furnishings and Thermal Insulation.

(o) The Board of Registered Nursing.

(p) The Board of Chiropractic Examiners.

(q) The Board of Behavioral Science Examiners.

(r) The State Athletic Commission.

(s) The Cemetery Board.

(t) The State Board of Guide Dogs for the Blind.

(u) The Bureau of Collection and Investigative Services.

(v) The Certified Shorthand Reporters Board.

(w) The Board of Vocational Nurse and Psychiatric Technician Examiners of the State of California.

(x) The California State Board of Landscape Architects.

(y) The Bureau of Electronic and Appliance Repair.

(z) The Osteopathic Medical Board of California.

(aa) The Division of Investigation.

(ab) The Bureau of Automotive Repair.

(ac) The State Board of Registration for Geologists and Geophysicists.

(ad) The State Board of Examiners of Nursing Home Administrators.

(ae) Any other boards, offices, or officers subject to its jurisdiction

by law.

SEC. 2. Section 130 of the Business and Professions Code is amended to read:

130. (a) Notwithstanding any other provision of law, the term of office of any member of an agency designated in subdivision (b) shall be for a term of four years expiring on June 1.

(b) Subdivision (a) applies to the following boards or committees:

(1) Medical Board of California.

(2) California Board of Podiatric Medicine.

(3) Physical Therapy Examining Committee.

(4) Board of Registered Nursing.

(5) Board of Vocational Nurse and Psychiatric Technician Examiners of the State of California.

(6) State Board of Optometry.

(7) California State Board of Pharmacy.

(8) Board of Examiners in Veterinary Medicine.

(9) California State Board of Architectural Examiners.

(10) California State Board of Landscape Architects.

(11) State Board of Barber Examiners.

(12) State Board of Registration for Professional Engineers and Land Surveyors.

(13) Contractors' State License Board.

(14) State Board of Cosmetology.

(15) State Board of Guide Dogs for the Blind.

(16) State Board of Funeral Directors and Embalmers.

(17) Board of Behavioral Science Examiners.

(18) Structural Pest Control Board.

(19) Cemetery Board.

(20) Bureau of Electronic and Appliance Repair Advisory Board.

(21) Certified Shorthand Reporters Board.

(22) State Board of Registration for Geologists and Geophysicists.

(23) State Athletic Commission.

(24) Osteopathic Medical Board of California.

SEC. 3. Section 154.5 of the Business and Professions Code is amended to read:

154.5. If a person, not a regular employee of a board under this code, including the Board of Chiropractic Examiners and the Osteopathic Medical Board of California, is hired or under contract to provide expertise to the board in the evaluation of an applicant or the conduct of a licensee, and that person is named as a defendant in a civil action arising out of the evaluation or any opinions rendered, statements made, or testimony given to the board or its representatives, the board shall provide for representation required to defend the defendant in that civil action. The board shall not be liable for any judgment rendered against the person. The Attorney General shall be utilized in the action and his or her services shall be a charge against the board.

SEC. 4. Section 656 of the Business and Professions Code is amended to read:

656. Whenever any person has engaged, or is about to engage, in any acts or practices which constitute, or will constitute, a violation of this article, the superior court in and for the county wherein the acts or practices take place, or are about to take place, may issue an injunction, or other appropriate order, restraining the conduct on application of the State Board of Optometry, the Medical Board of California, the Osteopathic Medical Board of California, the Attorney General, or the district attorney of the county.

The proceedings under this section shall be governed by Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure.

SEC. 5. Section 800 of the Business and Professions Code is amended to read:

800. (a) The Board of Medical Quality Assurance, the Board of Dental Examiners, the Osteopathic Medical Board of California, the Board of Chiropractic Examiners, the California Board of Registered Nursing, the Board of Vocational Nurse and Psychiatric Technician Examiners, the State Board of Optometry, the Board of Examiners in Veterinary Medicine, and the State Board of Pharmacy shall each separately create and maintain a central file of the names of all persons who hold a license, certificate, or similar authority from such board. Each central file shall be created and maintained as to provide an individual historical record for each licensee with respect to (1) any conviction of a crime in this or any other state which constitutes unprofessional conduct pursuant to the reporting requirements of Section 803; (2) any judgment or settlement requiring the licensee or his or her insurer, to pay any amount of damages in excess of three thousand dollars ($3,000) with respect to any claim that injury or death was proximately caused by the licensee's negligence, error or omission in practice, or rendering of unauthorized professional services, pursuant to the reporting requirements of Section 801 or 802; (3) any public complaints for which provision is hereinafter made, pursuant to subdivision (b) of this section; (4) disciplinary information reported pursuant to Section 805.

(b) Each board shall prescribe and promulgate forms on which members of the public and other licensees or certificate holders may file written complaints to the board alleging any act of misconduct in, or connected with, the performance of professional services by the licensee.

If a board, or division thereof, a committee, or a panel has failed to act upon a complaint or report within five years, or has found that the complaint or report is without merit, the central file shall be purged of information relating to the complaint or report.

(c) The contents of any central file which are not public records under any other provision of law shall be confidential except that the licensee involved, or his or her counsel or representative, shall have the right to inspect and have copies made of his or her complete file except for the provision that may disclose the identity of an information source. For the purposes of this section, a board may

protect an information source by providing a copy of the text of the material with only those deletions as are necessary to protect the identity of the source or by providing a comprehensive summary of the substance of the material. Whichever method is used, the board shall ensure that full disclosure is made to the subject of any personal information that could reasonably in any way reflect or convey anything detrimental, disparaging, or threatening to a licensee's reputation, rights, benefits, privileges, or qualifications, or be used by a board to make a determination that would affect a licensee's rights, benefits, privileges, or qualifications.

The licensee may, but is not required to, submit any additional exculpatory or explanatory statement or other information which the board shall include in the central file.

Each board may permit any law enforcement or regulatory agency when required for an investigation of unlawful activity or for licensing, certification, or regulatory purposes to inspect and have copies made of that licensee's file, unless the disclosure is otherwise prohibited by law.

These disclosures shall effect no change in the confidential status of these records.

SEC. 6. Section 801 of the Business and Professions Code is amended to read:

801. (a) Every insurer providing professional liability insurance to a person who holds a license, certificate or similar authority from or under any agency mentioned in subdivision (a) of Section 800 (except a person licensed pursuant to Chapter 3 (commencing with Section 1200) or Chapter 5 (commencing with Section 2000) of Division 2) or the Osteopathic Initiative Act shall send a complete report to that agency as to any settlement or arbitration award over three thousand dollars ($3,000) of a claim or action for damages for death or personal injury caused by that person's negligence, error or omission in practice, or rendering of unauthorized professional services. The report shall be sent within 30 days after the written settlement agreement has been reduced to writing and signed by all parties thereto or within 30 days after service of the arbitration award on the parties.

(b) Every insurer providing professional liability insurance to a physician and surgeon licensed pursuant to Chapter 5 (commencing with Section 2000) of Division 2 or the Osteopathic Initiative Act shall send a complete report to the Board of Medical Quality Assurance or the Osteopathic Medical Board of California, as appropriate, as to any settlement or arbitration award over thirty thousand dollars ($30,000) of a claim or action for damages for death or personal injury caused by that person's negligence, error or omission in practice, or rendering of unauthorized professional services. The report shall be sent within 30 days after the written settlement agreement has been reduced to writing and signed by all parties thereto or within 30 days after service of the arbitration award on the parties.

(c) Every insurer providing professional liability insurance to a person licensed pursuant to Chapter 13 (commencing with Section 4980) or Chapter 14 (commencing with Section 4990) shall send a complete report to the Board of Behavioral Science Examiners as to any settlement or arbitration award over ten thousand dollars ($10,000) of a claim or action for damages for death or personal injury caused by that person's negligence, error, or omission in practice, or rendering of unauthorized professional services. The report shall be sent within 30 days after the written settlement agreement has been reduced to writing and signed by all parties thereto or within 30 days after service of the arbitration award on the parties.

(d) Notwithstanding any other provision of law, no insurer shall enter into such a settlement without the written consent of the insured, except that this prohibition shall not void any settlement entered into without that written consent. The requirement of written consent shall only be waived by both the insured and the insurer. This section shall only apply to a settlement on a policy of insurance executed or renewed on or after January 1, 1971.

SEC. 7. Section 805 of the Business and Professions Code is amended to read:

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

(1) "Peer review body" includes:

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

(B) A health care service plan registered under Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code or a nonprofit hospital service plan regulated under Chapter 11a (commencing with Section 11491) of Part 2 of Division 2 of the Insurance Code.

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

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

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

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

(4) "Staff privileges" means any arrangement under which a licentiate is allowed to practice in or provide care for patients in a health facility. Those arrangements shall include, but are not limited

to, full staff privileges, active staff privileges, limited staff privileges, auxiliary staff privileges, provisional staff privileges, temporary staff privileges, courtesy staff privileges, locum tenens arrangements, and contractual arrangements to provide professional services, including, but not limited to, arrangements to provide outpatient services.

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

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

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

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

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

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

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

In addition to the duty to report as set forth in paragraphs (1), (2), and (3), the peer review body also has a duty to report under this section a licentiate's resignation or leave of absence from membership, staff, or employment following notice of an impending investigation based on information indicating medical disciplinary cause or reason.

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

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

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

The information to be reported in an 805 report shall include the name of the licentiate involved, a description of the facts and

circumstances of the medical disciplinary cause or reason, and any other relevant information deemed appropriate by the reporter.

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

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

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

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

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

(e) An intentional failure to make a report pursuant to this section is a public offense punishable by a fine not to exceed ten thousand dollars ($10,000).

(f) A failure by the administrator of any peer review body or the chief executive officer or administrator of any health care facility who is designated to transmit a report pursuant to this section whether or not the failure is intentional is punishable by a civil penalty not exceeding five thousand dollars ($5,000) per violation payable to the board with jurisdiction over the licensee in any action brought by the Attorney General.

SEC. 8. Section 805.1 of the Business and Professions Code is amended to read:

805.1. (a) The Medical Board of California, the Osteopathic Medical Board of California, and the Board of Dental Examiners shall be entitled to inspect and copy the following documents in the record of any disciplinary proceeding resulting in action which is required to be reported pursuant to Section 805:

(1) Any statement of charges.

(2) Any document, medical chart, or exhibits in evidence.

(3) Any opinion, findings, or conclusions.

(b) The information so disclosed shall be kept confidential and not subject to discovery, in accordance with Section 800, except that it may be reviewed, as provided in subdivision (c) of Section 800, and

may be disclosed in any subsequent disciplinary hearing conducted pursuant to the Administrative Procedure Act (Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code).

SEC. 9. Section 805.5 of the Business and Professions Code is amended to read:

805.5. (a) Prior to granting or renewing staff privileges for any physician and surgeon, clinical psychologist, podiatrist, or dentist, any health facility licensed pursuant to Division 2 (commencing with Section 1200) of the Health and Safety Code, or any health care service plan or medical care foundation, or the medical staff of any such institution, shall request a report from the Medical Board of California, the Osteopathic Medical Board of California, or the Board of Dental Examiners to determine if any report has been made pursuant to Section 805 indicating that the applying physician and surgeon, clinical psychologist, podiatrist, or dentist has been denied staff privileges, been removed from a medical staff, or had his or her staff privileges restricted as provided in Section 805. The request shall include the name and California license number of the physician and surgeon, clinical psychologist, podiatrist, or dentist. Furnishing of a copy of the 805 report shall not cause the 805 report to be a public record.

(b) Upon a request made by, or on behalf of, an institution described in subdivision (a) or its medical staff, which is received on or after January 1, 1980, the board shall furnish a copy of any report made pursuant to Section 805. However, the board shall not send a copy of a report (1) where the denial, removal, or restriction was imposed solely because of the failure to complete medical records, (2) where the board has found the information reported is without merit, or (3) where a period of three years has elapsed since the report was submitted.

In the event that the board fails to advise the institution within 30 working days following its request for a report required by this section, the institution may grant or renew staff privileges for the physician and surgeon, clinical psychologist, podiatrist, or dentist.

(c) Any institution described in subdivision (a) or its medical staff which violates subdivision (a) is guilty of a misdemeanor and shall be punished by a fine of not less than two hundred dollars ($200) nor more than one thousand two hundred dollars ($1,200).

SEC. 10. Section 2064.1 of the Business and Professions Code is amended to read:

2064.1. Notwithstanding the provisions of Section 2064 or any other provisions of this chapter, a regularly matriculated student undertaking a course of professional instruction in a medical school approved by the American Osteopathic Association or the Osteopathic Medical Board of California is eligible for enrollment in elective clerkships or preceptorships in any medical school or clinical training program in this state.

SEC. 11. Section 2099.5 of the Business and Professions Code is

amended to read:

2099.5. Notwithstanding any other provision of law, an originating license for an osteopathic physician's and surgeon's certificate issued by the Osteopathic Medical Board of California shall require the following:

(a) A written examination, as specified or approved by the Osteopathic Medical Board of California which includes osteopathic principles and practices and all applicable provisions of Article 4 (commencing with Section 2080). An applicant shall receive a minimum grade of 75 percent on the written examination.

The board may utilize the National Board of Osteopathic Examiners' examination for the written examination required by this subdivision and may make such arrangements with organizations furnishing examination material as it may deem desirable.

(b) An oral and practical examination administered by the board in which the applicant shall receive a minimum grade of 75 percent.

SEC. 11.3. Section 2099.5 of the Business and Professions Code is amended to read:

2099.5. Notwithstanding any other provision of law, an originating license for an osteopathic physician's and surgeon's certificate issued by the Osteopathic Medical Board of California shall require the following:

(a) A written examination, as prepared by the National Board of Osteopathic Examiners or by the Osteopathic Medical Board of California which includes osteopathic principles and practices and all applicable provisions of Article 4 (commencing with Section 2080). The board may utilize an examination prepared by the Federation of State Medical Boards until December 31, 1993. An applicant shall successfully complete the written examination, as determined by the board.

(b) An oral, clinical, and practical examination administered by the board which the applicant shall successfully complete, as determined by the board.

SEC. 11.5. Section 2154 of the Business and Professions Code is amended to read:

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

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

(b) The board determines that no disciplinary action has been

taken against the applicant by any medical licensing authority and that the applicant has not been the subject of adverse judgments or settlements resulting from the practice of medicine which the board determines constitutes evidence of a pattern of negligence or incompetence.

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

SEC. 11.6. Section 2154 of the Business and Professions Code is amended to read:

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

(a) The applicant holds an unlimited license to engage in the practice of osteopathic medicine in another state whose written licensing examination is recognized and approved by the board to be equivalent in content to that administered in California. For the purposes of this section, the board may recognize and approve as equivalent an examination prepared by the Federation of State Medical Boards if an applicant had been licensed in another state as a result of the successful completion, prior to December 31, 1993, of that examination. In lieu of a board recognized and approved state written license examination, the board may require the applicant to successfully complete a special examination in general medicine and osteopathic principles as prepared by the National Board of Osteopathic Medical Examiners or the Osteopathic Medical Board of California. The board may utilize an examination prepared by the Federation of State Medical Boards until December 31, 1993.

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

(c) The applicant successfully completes an oral, clinical, and practical examination, as determined by the board.

SEC. 11.7. Section 2275 of the Business and Professions Code is amended to read:

2275. Any person who held a physician's and surgeon's certificate under the jurisdiction of the Osteopathic Medical Board of California and a degree of doctor of medicine issued by a medical school located in the state at any time prior to September 30, 1962, and approved by either the Osteopathic Medical Board of California or the Medical Board of California at the time such degree was issued, who applied in writing to the Medical Board of California for permission to utilize his or her degree of doctor of medicine, shall be authorized to use the term or suffix "M.D." and the use shall not constitute unprofessional conduct, so long as the person advised both boards, in writing, that he or she has elected to use the term or suffix "M.D."

and further has elected not to use the term or suffix "D.O." In the event of such election, the use of the term or suffix "D.O." constitutes unprofessional conduct within the meaning of this chapter.

SEC. 12. Section 2360 of the Business and Professions Code is amended to read:

2360. It is the intent of the Legislature that the Osteopathic Medical Board of California seek ways and means to identify and rehabilitate osteopathic physicians and surgeons whose competency may be impaired due to abuse of dangerous drugs and alcohol, so that osteopathic physicians and surgeons so afflicted may be treated and returned to the practice of medicine in a manner which will not endanger the public health and safety. It is also the intent of the Legislature that the Osteopathic Medical Board of California shall implement this legislation by establishing a diversion program as a voluntary alternative approach to traditional disciplinary actions.

SEC. 13. Section 2361 of the Business and Professions Code is amended to read:

2361. As used in this article:

(a) "Board" means the Osteopathic Medical Board of California.

(b) "Diversion program" means a treatment program created by this article for osteopathic physicians and surgeons whose competency may be threatened or diminished due to abuse of drugs or alcohol.

(c) "Committee" means a diversion evaluation committee created by this article.

(d) "Participant" means a California licensed osteopathic physician and surgeon.

SEC. 14. Section 2368 of the Business and Professions Code is amended to read:

2368. An administrative fee to be established by the board, may be charged for participation in the program; all costs of treatment shall be paid by the participant. These fees shall be deposited into the Contingent Fund of the Osteopathic Medical Board of California.

SEC. 15. Section 2401 of the Business and Professions Code is amended to read:

2401. Notwithstanding Section 2400, a clinic operated primarily for the purpose of medical education by a public or private nonprofit university medical school, which is approved by the Division of Licensing or the Osteopathic Medical Board of California, may charge for professional services rendered to teaching patients by licensees who hold academic appointments on the faculty of the university, if the charges are approved by the physician and surgeon in whose name the charges are made.

SEC. 16. Section 2413 of the Business and Professions Code is amended to read:

2413. This article shall apply to medical corporations which have physicians and surgeons licensed by the Osteopathic Medical Board of California as shareholders, officers, and directors only to the extent that this article is not in conflict with or inconsistent with Section

2454.

SEC. 17. Section 2450 of the Business and Professions Code is amended to read:

2450. There is a Board of Osteopathic Examiners of the State of California, established by the Osteopathic Act, which shall be known as the Osteopathic Medical Board of California which enforces this chapter relating to persons holding or applying for physician's and surgeon's certificates issued by the Osteopathic Medical Board of California under the Osteopathic Act.

Persons who elect to practice using the term of suffix "M.D.," as provided in Section 2275, shall not be subject to this article, and the Medical Board of California shall enforce the provisions of this chapter relating to persons who made the election.

SEC. 18. Section 2451 of the Business and Professions Code is amended to read:

2451. The words "Medical Board of California," the term "board," or any reference to a division of the Medical Board of California as used in this chapter shall be deemed to mean the Osteopathic Medical Board of California, where that board exercises the functions granted to it by the Osteopathic Act.

SEC. 19. Section 2452 of the Business and Professions Code is amended to read:

2452. This chapter applies to the Osteopathic Medical Board of California so far as consistent with the Osteopathic Act. Unless otherwise provided, this article is administered by the board.

SEC. 20. Section 2454 of the Business and Professions Code is amended to read:

2454. A medical corporation which has physicians and surgeons licensed by the Osteopathic Medical Board of California as shareholders, officers, and directors shall comply with the provisions of this section and the provisions of Article 18 (commencing with Section 2400) which are not in conflict with or inconsistent with this section. "Board" as used in this section means the Osteopathic Medical Board of California.

A medical corporation is a corporation which is registered with the board with reference to corporations rendering professional services as osteopathic physicians and surgeons and has a currently effective certificate of registration from the board as set forth in the Moscone-Knox Professional Corporation Act (Section 13400 et seq. of the Corporations Code) and this section. Subject to all applicable statutes and regulations, a medical corporation is entitled to practice medicine. With respect to medical corporations rendering the professional services of osteopathic physicians and surgeons, the governmental agency referred to in subdivision (b) of Section 13401 of the Corporations Code is the Osteopathic Medical Board of California.

(b) An applicant for registration as a medical corporation consisting of osteopathic physicians and surgeons under this section shall supply to the board all necessary and pertinent documents and

information requested by the board concerning the applicant's plan of operation, including, but not limited to, a copy of its articles of incorporation, certified by the Secretary of State, a copy of its bylaws, certified by the secretary of the corporation, the name and address of the corporation, the names and addresses of its shareholders, directors and officers and employees who will render professional services as osteopathic physicians and surgeons, the address of each office and an applicant for any fictitious name or names under which the corporation intends to render professional services. The board may provide forms of application. The application shall be signed and verified by an officer of the corporation. If the board finds that the corporation is in compliance with the Moscone-Knox Professional Corporation Act, Article 17, and this section, and any regulations adopted pursuant thereto, and that from the application it appears the affairs of the corporation will be conducted in compliance with those laws and regulations, the board shall upon payment of the registration fee in an amount as it may determine, issue a certificate of registration.

(c) Within such time as the board may by regulation provide, a medical corporation issued a certificate under this section shall report in writing to the board any changes in share ownership, directors, officers, professional employees rendering medical services and the name of the corporation or any name under which it may render professional services and any change of address and any amendments to its articles of incorporation or bylaws.

(d) Each medical corporation issued a certificate under this section shall file annually with the board at a time set forth in its regulations a report containing information pertaining to the qualification and compliance with the statutes and regulations referred to in this section. The board may provide forms for filing the report. All reports shall be signed and verified by an officer of the corporation. The fee for filing the report shall be fixed by the board.

(e) The board may adopt and enforce regulations to carry out the purposes and objectives of this article and the Moscone-Knox Professional Corporation Act including regulations requiring (a) that the bylaws of a medical corporation shall include a provision whereby the capital stock of the corporation owned by a disqualified person, as defined in Section 13401 of the Corporations Code, or a deceased person, shall be sold to the corporation or to the remaining shareholders of the corporation within the time as the regulations may provide, and (b) that a medical corporation shall provide adequate security by insurance or otherwise for claims against it by its patients arising out of the rendering of professional services.

(f) The board may delegate to its executive officer, or other official or employee of the board, its authority to review and approve applications filed under this section and Section 2415 for fictitious name permits and to issue certificates of registration to medical corporations described in this section and to issue such fictitious name permits to corporations and physicians and surgeons who

qualify therefor.

SEC. 21. Section 2455 of the Business and Professions Code is amended to read:

2455. The amount of fees and refunds is that fixed by the following schedule for any certificate issued by the Osteopathic Medical Board of California. All other fees and refunds for any certificate issued by the Osteopathic Medical Board of California which are not prescribed in this schedule, are prescribed in Section 2456.

(a) Each applicant for an original or reciprocity Physicians and Surgeons Certificate shall pay an application fee in a sum not to exceed two hundred dollars ($200) at the time his or her application is filed. If the applicant's credentials are insufficient, or if he or she does not take the examination, the board may retain a sum equal to the actual cost of processing the application, not to exceed one hundred fifty dollars ($150) and the remainder of the fee is returnable upon application.

(b) The oral and practical examination fee shall not exceed two hundred dollars ($200) nor be less than fifty dollars ($50).

(c) The annual tax and registration fee, unless otherwise provided, shall be set by the board on or before November 1 of each year for the ensuing calendar year at a sum as the board determines necessary to defray the expenses of administering this chapter, under the Osteopathic Act, relating to the issuance of certificates to those applicants, which sum, however, shall, not exceed two hundred dollars ($200) nor be less than twenty-five dollars ($25).

(d) The board shall set an annual tax and registration fee in an amount less than that levied pursuant to subdivision (c) which shall be paid by any applicant who indicates to the board in writing that he or she does not intend to practice under the Osteopathic Act during the renewal period covered by that annual tax and registration fee.

(e) The fee for failure to pay the annual tax and registration fee shall be 50 percent of the renewal fee but not more than one hundred dollars ($100).

SEC. 22. Section 2456 of the Business and Professions Code is amended to read:

2456. (a) Each person holding a certificate issued by the Osteopathic Medical Board of California residing in or out of California shall pay to the secretary-treasurer of the board an annual tax and registration fee.

(b) Fictitious name permits issued by the Osteopathic Medical Board of California as provided in Section 2415 shall expire on December 31 of each year. The initial permit fee shall not exceed one hundred dollars ($100) and the renewal permit fee shall not exceed one hundred dollars ($100).

SEC. 23. Section 2457 of the Business and Professions Code is amended to read:

2457. The failure of any person holding a certificate issued by the

Osteopathic Medical Board of California to pay the annual tax and registration fee during the time his or her certificate remains in force, shall automatically work a forfeiture of his or her certificate after a period of 60 days from the date of expiration.

The certificate shall not be restored except upon written application and the payment to the Osteopathic Medical Board of California of the fee provided by this article. No examination shall be required for the reissuance of a certificate that was forfeited under the provisions of this section.

SEC. 24. Section 2458 of the Business and Professions Code is amended to read:

2458. When the prosecution for a violation of this chapter is initiated by the Osteopathic Medical Board of California, 75 percent of all fines and forfeitures of bail shall be paid upon the collection by the proper officer of the court to the board to be deposited by it to the credit of the contingent fund of the Osteopathic Medical Board of California.

The payment to the board shall be made without placing the fine or forfeiture of bail in any special, contingent, or general fund in any city, county, or city and county.

SEC. 25. Section 2459 of the Business and Professions Code is amended to read:

2459. The Osteopathic Medical Board of California shall not issue any drugless practitioner's certificates under this chapter or any other law.

All persons holding drugless practitioner's certificates may continue to practice under the authorization of their certificates and may renew them, subject to this chapter.

SEC. 26. Section 2545 of the Business and Professions Code is amended to read:

2545. Whenever any person has engaged, or is about to engage, in any acts or practices which constitute, or will constitute, an offense against this chapter, the superior court in and for the county wherein the acts or practices take place, or are about to take place, may issue an injunction, or other appropriate order, restraining the conduct on application of the State Board of Optometry, the Division of Allied Health Professions of the Medical Board of California, the Osteopathic Medical Board of California, the Attorney General, or the district attorney of the county.

The proceedings under this section shall be governed by Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure.

SEC. 27. Section 3535 of the Business and Professions Code is amended to read:

3535. Notwithstanding any other provision of law, physicians and surgeons licensed by the Osteopathic Medical Board of California may employ physician's assistants provided:

(a) Each physician's assistant so employed is a graduate of an approved program and is licensed by the Physician's Assistant

Examining Committee.

(b) The scope of practice of the physician's assistant shall be the same as that which is approved by the Division of Allied Health Professions of the Medical Board of California for physicians and surgeons supervising physician's assistants in the same or a similar specialty.

(c) The supervising physician and surgeon is approved by the Osteopathic Medical Board of California. The Osteopathic Medical Board of California may deny an application, or suspend or revoke or impose probationary conditions upon any osteopathic physician and surgeon approved to supervise any physician's assistant in any decision made after a hearing as provided in Section 3528.

(d) Any physician's assistant licensed by the committee shall be eligible for employment by any physician and surgeon approved by the Osteopathic Medical Board of California; except that no physician and surgeon shall supervise more than two physician's assistants. The Osteopathic Medical Board of California may restrict physicians and surgeons to supervising specific types of physician's assistants including, but not limited to, restricting physicians and surgeons from supervising physician's assistants outside of the physician's and surgeon's field of specialty.

(e) Each physician and surgeon desiring to supervise a physician's assistant under this section shall file a separate application. The fees to be paid to the Osteopathic Medical Board of California for approval to supervise a physician's assistant are to be set as follows: An application fee not to exceed fifty dollars ($50) shall be charged to each physician and surgeon applicant. An approval fee not to exceed one hundred dollars ($100) shall be charged to each physician and surgeon upon approval of an application to supervise a physician's assistant. If the approval will expire less than one year after its issuance, the fee shall be 50 percent of the initial approval fee currently in effect. The Osteopathic Medical Board of California shall renew approval to supervise physician's assistants upon application for that renewal. A biennial renewal fee not to exceed one hundred fifty dollars ($150) shall be paid for the renewal of that approval. The delinquency fee is twenty-five dollars ($25). The duplicate license fee is ten dollars ($10). The fees collected by the Osteopathic Medical Board of California pursuant to this subdivision shall be deposited in the Osteopathic Medical Board of California Contingent Fund.

(f) Any person who violates subdivision (a), (b), (c), or (d) of this section shall be guilty of a misdemeanor punishable by imprisonment in the county jail not exceeding six months, or by a fine not exceeding one thousand dollars ($1,000) or by both.

SEC. 28. Section 3600 of the Business and Professions Code is amended to read:

3600. The law governing licentiates of the Osteopathic Medical Board of California is found in the Osteopathic Act and in Chapter 5 of Division 2, relating to medicine.

SEC. 29. Section 4033 of the Business and Professions Code is amended to read:

4033. "Physicians," "dentists," "pharmacists," "podiatrists," "veterinarians," "veterinary surgeons," "registered nurses," and "physician's assistants" are persons authorized by a currently valid and unrevoked license to practice their respective professions in this state. "Physicians" means and includes any person holding a valid and unrevoked physician's and surgeon's certificate or certificate to practice medicine and surgery, issued by the Medical Board of California or the Osteopathic Medical Board of California, and includes an unlicensed person lawfully practicing medicine pursuant to Section 2147.5, when acting within the scope of that section.

SEC. 30. Section 4047.7 of the Business and Professions Code is amended to read:

4047.7. (a) The Director of Health Services shall establish by regulation a formulary of generic drug types and drug products which the Director of Health Services determines demonstrate clinically significant biological or therapeutic inequivalence and which, if substituted under Section 4047.6, would pose a threat to the health and safety of patients receiving prescription medication.

(b) The drug formulary established pursuant to this section shall include generic drug types and manufactured brand drug products, including, where applicable, drug products differentiated by dosage form or strength. In compiling the generic drug types and drug products for inclusion on the formulary, the Director of Health Services may rely on drug product research, testing, information, and formularies compiled by other states, the United States Department of Health and Human Services, and any other source which the Director of Health Services deems reliable.

(c) Regulations establishing the drug formulary shall be adopted within 120 days of the effective date of this section. The formulary shall be added to or deleted from as the Director of Health Services deems appropriate. Regulations shall be adopted in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. Any person who requests that the Director of Health Services make any inclusion, addition, or deletion, of a generic drug type or drug product to the formulary shall have the burden of proof to show cause why the inclusion, addition, or deletion, should be made by the Director of Health Services.

(d) Upon adoption of the formulary, and upon each addition, deletion, or modification to the formulary, the Director of Health Services shall mail a copy to each pharmacist licensed by the State Board of Pharmacy and to each physician and surgeon licensed to practice in the state by the Medical Board of California and each person licensed by the Osteopathic Medical Board of California. No pharmacist shall dispense a generically equivalent drug product pursuant to Section 4047.6 if the drug product and its generic drug type is included in the formulary.

SEC. 31. Section 4051 of the Business and Professions Code is amended to read:

4051. (a) No prescriber shall dispense drugs or dangerous devices to patients in his or her office or place of practice unless all of the following conditions are met:

(1) The drugs or dangerous devices are dispensed to the prescriber's own patient and the drugs or dangerous devices are not furnished by a nurse or attendant.

(2) The drugs or dangerous devices are necessary in the treatment of the condition for which the prescriber is attending the patient.

(3) The prescriber does not keep a pharmacy, open shop, drugstore, advertised or otherwise, for the retailing of drugs or dangerous devices or poisons.

(4) The prescriber fulfills all of the labeling requirements imposed upon pharmacists by Section 4047.5, all of the recordkeeping requirements of this chapter, and all of the packaging requirements of good pharmaceutical practice, including the use of child-proof containers.

(5) The prescriber does not use a dispensing device unless he or she personally owns the device and the contents of it and personally dispenses the drugs or dangerous devices to the patient packaged, labeled, and recorded in accordance with paragraph (4).

(b) The Medical Board of California and the Osteopathic Medical Board of California shall have authority with the Board of Pharmacy to assure compliance with this section, and those boards are specifically charged with the enforcement of this chapter with respect to their respective licensees.

(c) "Prescriber," as used in this section, means a person, who holds a physician's and surgeon's certificate or a certificate to practice podiatry, and who is duly registered as such by the Medical Board of California or the Osteopathic Medical Board of California.

(d) This section shall not prohibit the furnishing of a limited quantity of samples by a prescriber, if the prescriber dispenses the samples to the patient in the package provided by the manufacturer, no charge is made to the patient therefor, and an appropriate record is entered in the patient's chart.

(e) This section shall not apply to clinics, as defined in subdivision (a) of Section 1204 or subdivision (b) or (c) of Section 1206 of the Health and Safety Code, to veterinarians furnishing drugs for the treatment of animals, to programs licensed pursuant to Sections 11876, 11877, and 11877.5 of the Health and Safety Code, or to a prescriber dispensing parenteral chemotherapeutic agents, biologicals, or delivery systems used in the treatment of cancer.

SEC. 32. Section 44873 of the Education Code is amended to read:

44873. The qualifications for a physician and surgeon employed to serve on a half-time or greater than half-time basis shall be a valid certificate to practice medicine and surgery issued by the Medical Board of California or Osteopathic Medical Board of California and

either a services credential with a specialization in health or a valid credential issued prior to November 23, 1970. The qualifications for a physician and surgeon employed for less than half time shall be a valid certificate to practice medicine and surgery issued by the Medical Board of California. Any school district may employ and compensate physicians and surgeons meeting the foregoing qualifications for the performance of medical services for that district and shall provide liability insurance coverage for the period of his or her employment.

As used in this section "medical services" includes, but is not limited to, any medical services required to be performed while required to be in attendance at high school athletic contests or meets.

SEC. 33. Section 87356 of the Education Code is amended to read:

87356. (a) The board of governors shall adopt regulations to establish and maintain the minimum qualifications for service as a faculty member teaching credit instruction, a faculty member teaching noncredit instruction, a librarian, a counselor, an educational administrator, an extended opportunity programs and services worker, a disabled students programs and services worker, an apprenticeship instructor, and as a supervisor of health.

(b) Unless and until amended by the board of governors, the regulations shall establish the minimum qualifications for service as a supervisor of health as the following:

(1) The qualifications for a physician and surgeon employed to serve on a halftime or greater than halftime basis shall be a valid certificate to practice medicine and surgery issued by the Medical Board of California or Osteopathic Medical Board of California.

(2) The qualifications for a physician and surgeon employed for less than halftime shall be a valid certificate to practice medicine and surgery issued by the Medical Board of California.

(3) The qualifications for a psychologist or social worker shall be a valid certificate issued by the appropriate California agency authorized by law to certify these persons.

(4) The qualifications for a dentist shall be a valid certificate issued by the Board of Dental Examiners of California.

(5) The qualifications for a dental hygienist shall be a valid certificate issued by the Board of Dental Examiners of California.

(6) The qualifications for a nurse shall be a valid certificate of registration issued by the Board of Nurse Examiners of the State of California or the California Board of Nursing Education and Nurse Registration.

(7) The qualifications for an optometrist shall be a valid certificate issued by the State Board of Optometry.

(8) The qualifications for an audiometrist working under the direction of health services personnel shall be a valid certificate or license issued by, or valid registration with, the California state agency authorized to issue the certificate or license, or to effect the registration required for the performance of the service.

(c) The Legislature finds and declares that this section does not

create a state-mandated local program cost because compensation of faculty will continue to be determined through the collective bargaining process or meet and confer sessions.

SEC. 34. Section 11501 of the Government Code is amended to read:

11501. (a) This chapter applies to any agency as determined by the statutes relating to that agency.

(b) The enumerated agencies referred to in Section 11500 are:

Accountancy, State Board of
Air Resources Board, State
Alcohol and Drug Programs, State Department of
Alcoholic Beverage Control, Department of
Architectural Examiners, California State Board of
Attorney General
Auctioneer Commission, Board of Governors of
Automotive Repair, Bureau of
Barber Examiners, State Board of
Behavioral Science Examiners, Board of
Boating and Waterways, Department of
Cancer Advisory Council
Cemetery Board
Chiropractic Examiners, Board of
Collection and Investigative Services, Bureau of
Community Colleges, Board of Governors of the California
Conservation, Department of
Consumer Affairs, Director of
Contractors, Registrar of
Corporations, Commissioner of
Cosmetology, State Board of
Dental Examiners of California, Board of
Education, State Department of
Electronic and Appliance Repair, Bureau of
Engineers and Land Surveyors, State Board of Registration for Professional
Fair Employment and Housing Commission
Fair Political Practices Commission
Fire Marshal, State
Food and Agriculture, Director of
Forestry and Fire Protection, Department of
Funeral Directors and Embalmers, State Board of
Geologists and Geophysicists, State Board of Registration for
Guide Dogs for the Blind, State Board of
Health Services, State Department of
Highway Patrol, Department of the California
Home Furnishings and Thermal Insulation, Bureau of
Horse Racing Board, California
Housing and Community Development, Department of
Insurance Commissioner
Labor Commissioner

Landscape Architects, State Board of
Medical Board of California, Medical Quality Review Committees and Examining Committees
Motor Vehicles, Department of
Nursing, Board of Registered
Nursing Home Administrators, Board of Examiners of
Optometry, State Board of
Osteopathic Medical Board of California
Pharmacy, California State Board of
Public Employees' Retirement System, Board of Administration of the
Real Estate, Department of
San Francisco, San Pablo and Suisun, Board of Pilot Commissioners for the Bays of
Savings and Loan Commissioner
School Districts
Secretary of State, Office of
Shorthand Reporters Board, Certified
Social Services, State Department of
Statewide Health Planning and Development, Office of
Structural Pest Control Board
Tax Preparer Program, Administrator
Teacher Credentialing, Commission on
Teachers' Retirement System, State
Transportation, Department of, acting pursuant to the State Aeronautics Act
Veterinary Medicine, Board of Examiners in
Vocational Nurse and Psychiatric Technician Examiners of the State of California, Board of

SEC. 35. Section 26509 of the Government Code is amended to read:

26509. (a) Notwithstanding any other provision of law, including any provision making such records confidential, and including Title 1.8 (commencing with Section 1798) of Part 4 of Division 3 of the Civil Code, the district attorney shall be given access to, and may make copies of, any complaint against a person subject to regulation by a consumer-oriented state agency and any investigation of the person made by the agency, where that person is being investigated by the district attorney regarding possible consumer fraud.

(b) Where the district attorney does not take action with respect to the complaint or investigation, the material shall remain confidential.

(c) Where the release of the material would jeopardize an investigation or other duties of a consumer-oriented state agency, the agency shall have discretion to delay the release of the information.

(d) As used in this section, a consumer-oriented state agency is any state agency which regulates the licensure, certification, or qualification of persons to practice a profession or business within the

state, where the regulation is for the protection of consumers who deal with the professionals or businesses. It includes, but is not limited to, all of the following:

(1) The Board of Dental Examiners of California.
(2) The Medical Board of California.
(3) The State Board of Optometry.
(4) The California State Board of Pharmacy.
(5) The Board of Examiners in Veterinary Medicine.
(6) The State Board of Accountancy.
(7) The California State Board of Architectural Examiners.
(8) The State Board of Barber Examiners.
(9) The State Board of Registration for Professional Engineers.
(10) The Contractors' State License Board.
(11) The State Board of Cosmetology.
(12) The State Board of Funeral Directors and Embalmers.
(13) The Structural Pest Control Board.
(14) The Bureau of Home Furnishings and Thermal Insulation.
(15) The Board of Registered Nursing.
(16) The State Board of Fabric Care.
(17) The Board of Chiropractic Examiners.
(18) The Board of Behavioral Science Examiners.
(19) The State Athletic Commission.
(20) The Cemetery Board.
(21) The State Board of Guide Dogs for the Blind.
(22) The Bureau of Collection and Investigative Services.
(23) The Certified Shorthand Reporters Board.
(24) The Board of Vocational Nurse and Psychiatric Technician Examiners of the State of California.
(25) The California State Board of Landscape Architects.
(26) The Bureau of Repair Services.
(27) The Bureau of Employment Agencies.
(28) The Osteopathic Medical Board of California.
(29) The Division of Investigation.
(30) The Bureau of Automotive Repair.
(31) The State Board of Registration for Geologists and Geophysicists.
(32) The State Board of Examiners of Nursing Home Administrators.
(33) The Department of Alcoholic Beverage Control.
(34) The Department of Insurance.
(35) The Public Utilities Commission.
(36) The State Department of Health Services.
(37) The New Motor Vehicle Board.

SEC. 36. Section 7187 of the Health and Safety Code is amended to read:

7187. The following definitions shall govern the construction of this chapter:

(a) "Attending physician" means the physician selected by, or assigned to, the patient who has primary responsibility for the

treatment and care of the patient.

(b) "Directive" means a written document voluntarily executed by the declarant in accordance with the requirements of Section 7188. The directive, or a copy of the directive, shall be made part of the patient's medical records.

(c) "Life-sustaining procedure" means any medical procedure or intervention which utilizes mechanical or other artificial means to sustain, restore, or supplant a vital function, which, when applied to a qualified patient, would serve only to artificially prolong the moment of death and where, in the judgment of the attending physician, death is imminent whether or not such procedures are utilized. "Life-sustaining procedure" shall not include the administration of medication or the performance of any medical procedure deemed necessary to alleviate pain.

(d) "Physician" means a physician and surgeon licensed by the Medical Board of California or the Osteopathic Medical Board of California.

(e) "Qualified patient" means a patient diagnosed and certified in writing to be afflicted with a terminal condition by two physicians, one of whom shall be the attending physician, who have personally examined the patient.

(f) "Terminal condition" means an incurable condition caused by injury, disease, or illness, which, regardless of the application of life-sustaining procedures, would, within reasonable medical judgment, produce death, and where the application of life-sustaining procedures serve only to postpone the moment of death of the patient.

SEC. 37. Section 32128 of the Health and Safety Code is amended to read:

32128. (a) The rules of the hospital, established by the board of directors pursuant to this article, shall include all of the following:

(1) Provision for the organization of physicians and surgeons, podiatrists, and dentists licensed to practice in this state who are permitted to practice in the hospital into a formal medical staff, with appropriate officers and bylaws and with staff appointments on an annual or biennial basis.

(2) Provision for a procedure for appointment and reappointment of medical staff as provided by the standards of the Joint Commission on Accreditation of Healthcare Organizations.

(3) Provisions that the medical staff shall be self-governing with respect to the professional work performed in the hospital; that the medical staff shall meet in accordance with the minimum requirements of the Joint Commission on Accreditation of Healthcare Organizations; and that the medical records of the patients shall be the basis for such review and analysis.

(4) Provision that accurate and complete medical records be prepared and maintained for all patients.

For purposes of this paragraph medical records include, but are not limited to, identification data, personal and family history, history

of present illness, physical examination, special examinations, professional or working diagnoses, treatment, gross and microscopic pathological findings, progress notes, final diagnosis, condition on discharge, and other matters as the medical staff shall determine.

(5) Limitations with respect to the practice of medicine and surgery in the hospital as the board of directors may find to be in the best interests of the public health and welfare, including appropriate provision for proof of ability to respond in damages by applicants for staff membership, as long as no duly licensed physician and surgeon is excluded from staff membership solely because he or she is licensed by the Osteopathic Medical Board of California.

(b) The rules of the hospital shall, insofar as consistent with this article, be in accord with and contain minimum standards not less than the rules and standards of private or voluntary hospitals. Unless specifically prohibited by law, the board of directors may adopt other rules which could be lawfully adopted by private or voluntary hospitals.

SEC. 38. (a) The Legislature finds and declares that there is a need for a more continuous rotation of appointments of osteopathic physician and surgeon members and public members on the Osteopathic Medical Board of California. The Legislature further finds and declares that this can best be accomplished by restricting an appointment to the board to no more than three consecutive terms, thereby limiting the amount of time of service on the board.

(b) It is the intention of the Legislature that accomplishing the term limitation of appointments to the board will enhance the efficacy of the board and further serve the public good.

SEC. 39. Section 1 of the act cited in the title is amended to read:

Section. 1. A self-sustaining Osteopathic Medical Board of California to consist of five members and to be known as the "Osteopathic Medical Board of California" is hereby created and established. The Governor shall appoint the members of the board, each of whom shall have been a citizen of this state and in active practice for at least five years next preceding his or her appointment. Each of the members shall be appointed from among persons who are graduates of osteopathic schools who hold unrevoked physician's and surgeon's D.O. licenses or certificates to practice in this state. No one residing or practicing outside of this state may be appointed to, or sit as a member of, the board. The Governor shall fill by appointment all vacancies on the board for the unexpired term. The term of office of each member shall be three years; provided, that of the first board appointed, one shall be appointed for one year, two for two years, and two for three years, and that thereafter all appointments shall be for three years, except that appointments to fill vacancies shall be for the unexpired term only. No member shall serve for more than three full consecutive terms. The Governor shall have power to remove from office any member of the board for neglect of duty required by the Osteopathic Act or Medical Practice Act, for no longer complying with the residency or practice

requirements of this section, for incompetency, or for unprofessional conduct. Each member of the board shall, before entering upon the duties of his or her office, take the constitutional oath of office. All fees collected on behalf of the Osteopathic Medical Board of California and all receipts of every kind and nature, shall be reported at the beginning of each month for the month preceding, to the Controller and at the same time the entire amount must be paid into the State Treasury and shall be credited to a fund to be known as the Osteopathic Medical Board of California Contingent Fund, which fund is hereby created. The contingent fund shall be for the use of the Osteopathic Medical Board of California and out of it and not otherwise shall be paid all expenses of the board. Each member of the board shall receive a per diem and expenses as provided in Section 103, provided the fees and other receipts of the board are sufficient to meet this expense.

The Governor shall appoint the members of the board within 30 days after this act takes effect. The board shall be organized within 60 days after the appointment of its members by the Governor by electing from its number a president, vice president, and a secretary who shall also be the treasurer, who shall hold their respective positions during the pleasure of the board. The board shall hold one meeting during the first quarter of each calendar year at a time and place designated by the board with power of adjournment from time to time until its business is concluded. Special meetings of the board may be held at such time and place as the board may designate. Notice of each regular or special meeting shall be given twice a week for two weeks next preceding each meeting in one daily paper published in the City of San Francisco, one published in the City of Sacramento, and one published in the City of Los Angeles which notice shall also specify the time and place of holding the examination of applicants. The secretary of the board upon an authorization from the president of the board, or the chairperson of the committee may call meetings of any duly appointed committee of the board at a specified time and place and it shall not be necessary to advertise those committee meetings. The board shall receive through its secretary applications for certificates to be issued by the board and shall, on or before the first day of January in each year transmit to the Governor a full report of all its proceedings together with a report of its receipts and disbursements.

The office of the board shall be in the City of Sacramento. Suboffices may be established in Los Angeles and San Francisco and records as may be necessary may be transferred temporarily to those suboffices. Legal proceedings against the board may be instituted in any one of the three cities.

The board may from time to time adopt rules as may be necessary to enable it to carry into effect the provisions of this act. It shall require the affirmative vote of three members of the board to carry any motion or resolution, to adopt any rules, pass any measure or to authorize the issuance or the revocation of any certificate. Any

member of the board may administer oaths in all matters pertaining to the duties of the board and the board shall have authority to take evidence in any matter cognizable by it. The board shall keep an official record of its proceedings, a part of which record shall consist of a register of all applicants for certificates under this act together with the action of the board upon each application.

The board shall have the power to employ legal counsel to advise and assist it in connection with all matters cognizable by the board or in connection with any litigation or legal proceedings instituted by or against the board and may also employ clerical assistance as it may deem necessary to carry into effect this act. The board may fix the compensation to be paid for those services and may incur other expense as it may deem necessary; provided, however, that all of that expense shall be payable only from the fund hereinbefore provided for and to be known as the Osteopathic Medical Board of California Contingent Fund.

SEC. 40. Section 1.5 of the act cited in the title is amended to read:

Sec. 1.5. In addition to the five members of the Osteopathic Medical Board of California as provided for in Section 1, there shall be two public members on the board. The public members shall not be a licensee of any board in Division 2 (commencing with Section 500) of the Business and Professions Code nor of any initiative act referred to in that division. The public members shall be appointed by the Governor for a term of three years and shall not serve for more than three full consecutive terms.

SEC. 41. Section 2 of the act cited in the title is amended to read:

Sec. 2. The Osteopathic Medical Board of California shall enforce those portions of the Medical Practice Act identified as Article 12 (commencing with Section 2220), of Chapter 5 of Division 2 of the Business and Professions Code, as now existing or hereafter amended, as to persons who hold certificates subject to the jurisdiction of the Osteopathic Medical Board of California, however, persons who elect to practice using the term or suffix "M.D." as provided in Section 2275 of the Business and Professions Code, as now existing or hereafter amended, shall not be subject to this section, and the Medical Board of California shall enforce the provisions of the article as to persons who make the election. After making the election, each person so electing shall apply for renewal of his or her certificate to the Medical Board of California, and the Medical Board of California shall issue renewal certificates in the same manner as other renewal certificates are issued by it.

SEC. 42. Section 3 of the act cited in the title is amended to read:

Sec. 3. This act, as amended, may be further amended or modified by the Legislature. In addition to the power to amend or modify, the Legislature shall have the power to repeal this act, as amended, in its entirety, and transfer any or all of its functions to the Medical Board of California, in the event that the number of persons who are subject to the jurisdiction of the Osteopathic Medical Board

of California reaches 40 or fewer. The Legislature shall, from time to time, appropriate to the Medical Board of California, and in particular for the contingent fund of the board, any sums as may be reasonably necessary for the purpose of carrying out its functions and duties.

SEC. 43. Section 5 of the act cited in the title is amended to read:

Sec. 5. Notwithstanding any other provision of law, on and after the effective date of this section, a graduate of an osteopathic medical school shall apply for a physician's and surgeon's certificate from the Osteopathic Medical Board of California, which has the sole power to issue a physician's and surgeon's certificate to an osteopathic-trained physician and surgeon.

It shall be unprofessional conduct for a physician and surgeon licensed by the Osteopathic Medical Board of California to apply for a physician's and surgeon's certificate from a board other than the Osteopathic Medical Board of California.

This section shall not prohibit the renewal of a physician's and surgeon's certificate which was issued by a board other than the Osteopathic Medical Board of California prior to the effective date of this section.

SEC. 44. Section 11.3 of this bill incorporates amendments to Section 2099.5 of the Business and Professions Code proposed by both this bill and AB 437. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1992, (2) each bill amends Section 2099.5 of the Business and Professions Code, and (3) this bill is enacted after AB 437, in which case Section 11 of this bill shall not become operative.

SEC. 45. Section 11.6 of this bill incorporates amendments to Section 2154 of the Business and Professions Code proposed by both this bill and AB 437. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1992, (2) each bill amends Section 2154 of the Business and Professions Code, and (3) this bill is enacted after AB 437, in which case Section 11.5 of this bill shall not become operative.

CHAPTER 360

An act to amend Section 12240 of the Business and Professions Code, relating to weights and measures.

[Approved by Governor August 29, 1991. Filed with Secretary of State August 30, 1991.]

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

SECTION 1. Section 12240 of the Business and Professions Code is amended to read:

12240. (a) The board of supervisors may, by ordinance, charge

an annual device registration fee to recover the costs of inspecting or testing weighing and measuring devices required of the county sealer pursuant to Section 12210, except as provided in subdivision (d). The fee shall not exceed the county's total cost of actually inspecting or testing the devices, as required by law, or the amount prescribed in the Table of Maximum Annual Charges set forth in subdivision (e), except that the county may collect the fees biennially, in which case they shall not exceed twice the amount of an annual fee. The ordinance shall be adopted pursuant to Article 7 (commencing with Section 25120) of Chapter 1 of Part 2 of Division 2 of Title 2 of the Government Code.

(b) Retail gasoline pump meters, for which the above fees are assessed, shall be inspected as frequently as required by regulations, but not less than once every two years.

(c) Livestock scales, animal scales, and scales used primarily for weighing feed and seed, for which the above fees are assessed, shall be inspected as frequently as required by regulations.

(d) This section does not apply to farm milk tanks.

(e) Table of Maximum Annual Charges:

Number of Devices	1 to 3	4 to 9	Over 9
Charge Per Location	$20	$40	$60

CHAPTER 361

An act to amend Sections 20151, 21283.5, 21285, 21286, 21288, 21288.5, 21289, 21290.5, 21561, 21563, and 21563.5 of, to add Sections 21051.4, 21069, and 21281.5 to, to repeal Section 21287 of, and to repeal and add Section 21283 of, the Food and Agricultural Code, relating to cattle, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 29, 1991. Filed with Secretary of State August 30, 1991]

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

SECTION 1. Section 20151 of the Food and Agricultural Code is amended to read:

20151. (a) The Legislature finds and declares that this division is enacted in the exercise of the police power of this state for the purpose of protecting the cattle industry of this state from losses of livestock by theft and straying.

(b) The Legislature further finds and declares that the protection should be afforded through a system of brand inspection of cattle as the cattle are moved and marketed within this state, and that, to the

extent that adequate funding is made available, an investigative unit be maintained within the department for the purpose of assisting local law enforcement agencies in combating cattle theft in this state.

(c) The department shall develop a surveillance patrol program, to the extent that adequate funding is made available, to assist in the detection and apprehension of persons involved in cattle theft.

SEC. 2. Section 21051.4 is added to the Food and Agricultural Code, to read:

21051.4. (a) In addition to any other penalty provided by this chapter, the director may levy a civil penalty against any person who violates this chapter of an amount not to exceed one hundred dollars ($100) for each violation.

(b) Before a civil penalty is levied, the person who is charged with a violation shall be provided a notice of the violation, shall have an opportunity to be heard, and shall have the right to review the evidence and to present evidence on his or her behalf.

(c) The decision of the director may be reviewed pursuant to Section 1094.5 of the Code of Civil Procedure.

(d) The director shall deposit the funds collected pursuant to this section in the Department of Food and Agriculture Fund for expenditure as authorized by this division.

SEC. 3. Section 21069 is added to the Food and Agricultural Code, to read:

21069. (a) The director may issue an annual release permit to allow cattle to be transported into another state without brand inspection if all of the following conditions exist:

(1) The state of destination is contiguous to California and it has entered into an inspection agreement with California.

(2) The shipping point is not more than 50 miles from the destination.

(3) The cattle are transported to a public posted stockyard or saleyard.

(4) The cattle are accompanied by a permit document issued by the director.

(b) The director may charge a fee to cover the cost of issuing or renewing the permit in an amount not to exceed one hundred dollars ($100).

(c) The director may, at any time, revoke the permit and require brand inspection if the director determines that this action is necessary to carry out the enforcement of this chapter.

SEC. 4. Section 21281.5 is added to the Food and Agricultural Code, to read:

21281.5. In addition to other applicable fees, as provided by this chapter, the director may impose a service charge in an amount not to exceed ten dollars ($10) for each site at which an inspection is performed.

SEC. 5. Section 21283 of the Food and Agricultural Code is repealed.

SEC. 6. Section 21283 is added to the Food and Agricultural Code,

to read:

21283. (a) Unless otherwise provided in this article, inspection fees shall be paid at the point of inspection.

(b) The fee for inspection is ninety cents ($0.90) for each animal which is inspected, except as follows:

(1) The fee for inspection at a registered feedlot, as defined in Section 20015, is forty-five cents ($0.45) for each animal which is inspected.

(2) The fee for inspecting any animal which originated in another state and was shipped into this state for feeding direct to a registered feedlot is thirty cents ($0.30) for each animal which is inspected.

(3) The fee for inspecting an animal which was inspected at a posted stockyard or posted saleyard in this state and shipped direct to a registered feedlot is thirty cents ($0.30) for each animal which is inspected.

SEC. 7. Section 21283.5 of the Food and Agricultural Code is amended to read:

21283.5. Except as otherwise provided in this article, on all private treaty transaction inspections, as defined in Section 20026, regardless of destination, the fee of ninety cents ($0.90) shall be paid at the point of inspection for each animal which is inspected.

SEC. 8. Section 21285 of the Food and Agricultural Code is amended to read:

21285. The fee is ninety cents ($0.90) for the inspection before sale of each animal at a public saleyard which is posted by the Secretary of Agriculture of the United States or at a public saleyard if the animal originated in another state and it was shipped to this state, consigned to that public stockyard or public saleyard.

SEC. 9. Section 21286 of the Food and Agricultural Code is amended to read:

21286. The fee is ninety cents ($0.90) for the inspection of each animal which originated in another state and was shipped to this state for slaughter, if the animal is unloaded in an enclosure which is used exclusively by the slaughterer that is located within one mile of the slaughterhouse and the cattle are driven, not transported, from the enclosure to the slaughterhouse.

SEC. 10. Section 21287 of the Food and Agricultural Code is repealed.

SEC. 11. Section 21288 of the Food and Agricultural Code is amended to read:

21288. In a modified point-of-origin inspection area, as provided in Section 21111, the fee for the inspection of cattle, other than suckling calves which are accompanying their mothers, is ninety cents ($0.90) per head if the cattle are transported out of the area for purposes other than sale or slaughter and no change of ownership is involved.

SEC. 12. Section 21288.5 of the Food and Agricultural Code is amended to read:

21288.5. For cattle, other than suckling calves accompanying

their mothers, transported out of the state for purposes other than sale or slaughter and where no change of ownership is involved the inspection fee is ninety cents ($0.90) per head.

SEC. 13. Section 21289 of the Food and Agricultural Code is amended to read:

21289. The fee for the inspection of cattle which originated in any county or geographical area where a full point-of-origin inspection is maintained pursuant to Article 4 (commencing with Section 21141) shall be established by the director, upon recommendation of the Livestock Identification Advisory Board, in an amount sufficient to cover the actual costs incurred by the bureau in performing the inspection. A fee shall not be charged for any suckling calves which are accompanying their mothers if they are not shipped for sale or slaughter and no change of ownership is involved. Cattle moving out of a full point-of-origin area to a destination inspection point are exempt from the destination inspection fee. However, these cattle are subject to further inspection.

SEC. 14. Section 21290.5 of the Food and Agricultural Code is amended to read:

21290.5. Any person who receives cattle from any cattle sale market, either public or private, including any public stockyard where sales of cattle are held, may, upon request and upon payment of a fee of seventy cents ($0.70) per head before accepting delivery of any cattle from that market or stockyard, have a reinspection of the cattle.

SEC. 15. Section 21561 of the Food and Agricultural Code is amended to read:

21561. All brand inspection fees are due and payable at the time of the inspection. The amount which is due for all inspections that are made shall be paid to the inspector within 30 days after the issuance of the brand inspection certificates for the hides or carcasses which were inspected unless there is on deposit with the bureau a bond in an amount and form which is approved by the chief or a cash deposit to cover the payment of those fees.

SEC. 16. Section 21563 of the Food and Agricultural Code is amended to read:

21563. Except as otherwise provided in this article, the fee shall be paid at the point of inspection and is one dollar and twenty cents ($1.20) for each carcass or hide which is inspected.

SEC. 17. Section 21563.5 of the Food and Agricultural Code is amended to read:

21563.5. The fee for the inspection of each carcass or hide shall be one dollar and twenty cents ($1.20) for each carcass and hide originating in those counties or geographical areas where a point-of-origin inspection is maintained pursuant to Article 4 (commencing with Section 21141) of Chapter 6.

SEC. 18. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into

immediate effect. The facts constituting the necessity are:

The drought conditions in California have impacted range cattle operations and have reduced revenues collected from cattle inspection fees. In order for this act to take effect and apply during the early portion of the 1991–92 fiscal year, it is necessary that this act take effect immediately.

CHAPTER 362

An act to amend Sections 4604, 9553, and 9706 of, to add Section 4604.2 to and to repeal and add Section 9407 of, the Vehicle Code, relating to vehicles, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 29, 1991. Filed with Secretary of State August 30, 1991]

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

SECTION 1. Section 4604 of the Vehicle Code is amended to read:

4604. (a) Except as otherwise provided in subdivision (d), prior to the expiration of the registration of a vehicle, if that registration is not to be renewed prior to its expiration, the owner of the vehicle shall file, under penalty of perjury, a certification that the vehicle will not be operated, moved, or left standing upon any highway during the subsequent registration year without first making an application for registration of the vehicle, including full payment of all fees. The certification is valid only for the following registration year for the vehicle, but may be renewed annually prior to its expiration.

(b) Each certification filed pursuant to subdivision (a) shall be accompanied by a filing fee of five dollars ($5).

(c) An application for renewal of registration, whether or not accompanied by an application for transfer of title to, or any interest in, the vehicle, shall be submitted to the department with payment of the required fees for the current registration year and without penalty for delinquent payment of fees imposed under this code or under Part 5 (commencing with Section 10701) of Division 2 of the Revenue and Taxation Code if the department receives the application within 20 days after the date the vehicle is first operated, moved, or left standing upon any highway during the current registration year and the certification required pursuant to subdivision (a) was timely filed with the department.

(d) A certification is not required to be filed pursuant to subdivision (a) for any of the following:

(1) A vehicle on which the registration expires while being held as inventory by a dealer or lessor-retailer or while being held pending a lien sale by the keeper of a garage or operator of a towing

service.

(2) A vehicle registered pursuant to Article 4 (commencing with Section 8050) of Chapter 4 of Division 3.

(3) A vehicle described in Section 5004, 5004.5, 5004.6, or 5052, as provided in Section 4604.2. However, the registered owner may file a certificate of nonoperation in lieu of the certification specified in subdivision (a).

SEC. 2. Section 4604.2 is added to the Vehicle Code, to read:

4604.2. (a) When the registration of a vehicle registered on a partial year basis has expired and the vehicle is not thereafter operated, moved, or left standing upon any highway, and the vehicle is in compliance with subdivision (d) of Section 9706 applying to vehicles registered on a partial year basis, any application for renewal made subsequent to that expiration shall be accompanied by a certificate of nonoperation.

(b) An application for registration or renewal of registration of a vehicle described in Section 5004, 5004.5, or 5004.6 that has not been operated, moved, or left standing upon any highway shall be accompanied by a certificate of nonoperation for the period during which the vehicle was not registered.

(c) A certificate of nonoperation may be accepted for a vehicle registered pursuant to Article 4 (commencing with Section 8050) of Chapter 4 solely for the purpose of waiver of penalties.

(d) The application for registration or renewal of registration of vehicles specified in subdivisions (a) and (b), whether or not accompanied by an application for transfer of title, shall be accepted by the department upon payment of the proper fees for the current registration year without the payment of delinquent fees imposed under this code or Part 5 (commencing with Section 10701) of Division 2 of the Revenue and Taxation Code if the department receives the application and certificate of nonoperation prior to the date the vehicle is first operated, moved, or left standing upon any highway during the current registration year.

SEC. 3. Section 9407 of the Vehicle Code is repealed.

SEC. 4. Section 9407 is added to the Vehicle Code, to read:

9407. The fee required under Section 9400 shall be reduced proportionately for each month which has elapsed since the expiration of the last issued registration certificate if either of the following applies:

(a) Application for registration is made after the first month of any registration year and a certification was filed pursuant to subdivision (a) of Section 4604.

(b) Application for registration of a vehicle registered on a partial year basis is made after the first month following expiration and a certification was filed pursuant to subdivision (d) of Section 9706.

SEC. 5. Section 9553 of the Vehicle Code is amended to read:

9553. (a) A penalty shall be added upon any application for renewal of registration or any application for renewal of special license plates made after midnight of the expiration date of the

registration or special plates, except as provided in Section 4604 or 9706, or in subdivision (b).

(b) When renewal fee penalties have not accrued with respect to a vehicle and the vehicle is transferred, the transferee has 20 days from the date of the transfer to pay the registration fees which become due without payment of any penalties that would otherwise be required under subdivision (a) or to file a certification pursuant to subdivision (a) of Section 4604 if the vehicle will not be operated, moved, or left standing upon any highway during the subsequent registration year without first making application for registration of the vehicle, including full payment of all fees.

(c) If the fee specified in Sections 9255 and 9257 is not paid within 20 days after it becomes delinquent, a penalty shall be added thereto.

(d) Except as otherwise provided in this section, if any fee is not paid within 20 days after it becomes delinquent, a penalty shall be added thereto.

SEC. 6. Section 9706 of the Vehicle Code is amended to read:

9706. (a) Application for partial year registration in conjunction with an application for original California registration shall be made by the owner within 20 days of the date the vehicle first becomes subject to California registration. Any application for partial year registration submitted after that 20-day period shall be denied registration for a partial year, and the vehicle shall be subject to payment of the fees for the entire registration year. In addition to the fee for the registration year, a penalty, as specified in Section 9554, shall be added to the fee for registration.

(b) Any application to renew registration for a part of the remainder of the registration year or for the entire remainder of the registration year shall be made prior to midnight of the expiration date of the last issued registration certificate. Application shall be made upon presentation of the last issued registration card or of a potential registration issued by the department for use at the time of renewal and by payment of the required partial year fees, or, if renewal is for the remainder of the registration year, by payment of the annual fee required by Section 9400, as reduced pursuant to Section 9407. Any application submitted after the expiration date of the last issued registration certificate for which a certification of nonoperation has not been filed pursuant to subdivision (d), shall be refused partial year registration and shall be subject to payment of the full fees for the registration year or remainder thereof. In addition to the fee for the registration year or remainder thereof, a penalty as specified in Section 9554 shall be added to the fee for renewal of registration.

(c) In order to obtain partial year registration or renewal of partial year registration for a period of less than three months, the application shall be made prior to the date the vehicle is first operated, moved, or left standing on the highways. Partial year registration, or renewal of partial year registration, may be obtained for a minimum of three months if application is made within 20 days

of the date the vehicle is first operated, moved, or left standing on the highways.

(d) In order to retain the partial year privilege, owners of vehicles registered on that basis shall, by December 31 of the following calendar year, either pay all past due fees, if any, and current partial year renewal fees or file a certification pursuant to subdivision (a) of Section 4604 and pay the filing fee.

(e) Notwithstanding subdivision (c), the owner of any vehicle being moved or operated for the purpose of providing support to firefighting operations while the vehicle or owner is under contract to the United States Forestry Service, the United States Department of the Interior, the Bureau of Land Management, the Department of Forestry and Fire Protection, or the Office of Emergency Services may obtain partial year registration if application is made within 20 days of the date the vehicle is first operated, moved, or left standing on the highway and the owner has obtained a letter of authorization from the department prior to the date that the vehicle is first operated, moved, or left standing on the highway.

SEC. 7. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order, as quickly as possible, to relieve hardships imposed upon owners of historical vehicles, antique motorcycles, street rod vehicles, and certain other vehicles due to the recent imposition of certification of nonoperation requirements, since those persons do not contribute to the problem of the operation of unregistered vehicles on the highways, which problem is addressed by those new requirements, it is necessary that this act take effect immediately.

CHAPTER 363

An act to amend Section 19627.2 of the Business and Professions Code, relating to horseracing.

[Approved by Governor August 29, 1991. Filed with Secretary of State August 30, 1991.]

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

SECTION 1. Section 19627.2 of the Business and Professions Code is amended to read:

19627.2. The funds made available pursuant to both subdivision (c) of Section 19614 and subdivision (b) of Section 19614.1 shall be allocated by the Director of Food and Agriculture for all of the following activities:

(a) For purposes specified in Section 4401.5 of the Food and Agricultural Code.

(b) For purposes specified in Section 51004 of the Education Code to support student organization activities, approved by an appropriate local educational agency, in the fields of agricultural and vocational education. The Director of Food and Agriculture shall annually invite school districts, the Vocational Education Unit of the State Department of Education, and California fairs to which this article applies, together and cooperatively, to apply for funding for the purposes specified in Section 51004 of the Education Code.

(c) The Director of Food and Agriculture shall allocate not less than three hundred thousand dollars ($300,000) annually for the purposes specified in subdivision (b).

(d) For the support of live horseracing at fairs, including, but not limited to, safety-related improvements, general facility improvements, and general operational support of the live race meeting.

(e) The Director of Food and Agriculture may allocate up to 33 percent of the funds derived annually by each racing fair pursuant to subdivision (c) of Section 19614 and subdivision (b) of Section 19614.1 to that fair for the purposes specified in subdivision (d) that are identified by the fair in an annual application for funding to be submitted to, and approved by, the director.

(f) Funds not allocated pursuant to this section shall be allocated pursuant to Section 19630.

CHAPTER 364

An act to add Article 10.7 (commencing with Section 25217) to Chapter 6.5 of Division 20 of the Health and Safety Code, relating to hazardous waste.

[Approved by Governor August 29, 1991. Filed with Secretary of State August 30, 1991.]

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

SECTION 1. Article 10.7 (commencing with Section 25217) is added to Chapter 6.5 of Division 20 of the Health and Safety Code, to read:

Article 10.7. Recyclable Latex Paint

25217. For the purposes of this article, "recyclable latex paint" means any water-based latex paint, still in liquid form, that is transferred for the purposes of being recycled.

25217.1. No person shall dispose of, or attempt to dispose of, liquid latex paint in the land or into the waters of the state unless authorized by applicable provisions of law.

25217.2. (a) Recyclable latex paint may be accepted at any

location if all of the following conditions are met:

(1) The location manages the recyclable latex paint in accordance with all applicable latex paint product management procedures specified by federal, state, or local law or regulation which include, at a minimum, that the recyclable latex paint is stored and handled in a manner that minimizes the chance of exposing the handler and the environment to potentially hazardous constituents that may be in, or have been incidentally added to, the recyclable latex paint.

(2) Any latex paint that is accepted as recyclable by the location and which is later discovered to be nonrecyclable shall be deemed to be a waste generated at the location where this discovery is made and this latex paint shall be managed as a waste in accordance with this chapter.

(3) The owner or operator of the location has a business plan that meets the requirements of Section 25504, if required by the administrating agency, including, but not limited to, emergency response plans and procedures, as described in subdivision (b) of Section 25504. The plans and procedures shall specifically address recyclable latex paint or meet the department's emergency response and contingency requirements which are applicable to generators of hazardous waste.

(4) If the recyclable latex paint is not excluded or exempted from regulation under Chapter I (commencing with Section 1.1) of Title 40 of the Code of Federal Regulations, the location meets all applicable federal requirements.

25217.3. (a) Notwithstanding Sections 25160 and 25163, a person may transport recyclable latex paint without the use of a manifest or obtaining registration as a hazardous waste hauler if the transporter complies with this article.

(b) A person transporting recyclable latex paint shall use a bill of lading to document the transportation of recyclable latex paint from collection locations, or any interim locations, to a recycling facility, whenever the transportation involves a change in ownership of the recyclable latex paint. A copy of the bill of lading shall be kept by the originating location, transporter, and destination of the recyclable latex paint for a period of at least three years and shall include all of the following information:

(1) The name, address, and telephone number of the originating location, the transporter, and the destination of the recyclable latex paint.

(2) The quantity of the recyclable latex paint being transported.

(3) The date on which the transporter accepts the recyclable latex paint from the originating location.

(4) The signatures of the transporter and a representative of the originating location.

25217.4. A person may recycle recyclable latex paint at a facility which is not authorized by the department pursuant to the applicable hazardous waste facilities permit requirements of Article 9 (commencing with Section 25200) if the person complies with

Section 25217.2.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 365

An act to amend Section 39363 of, and to add Section 39363.2 to, the Education Code, relating to school districts.

[Approved by Governor August 30, 1991 Filed with Secretary of State September 3, 1991]

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

SECTION 1. Section 39363 of the Education Code is amended to read:

39363. The funds derived from the sale of surplus property shall be used for capital outlay or for costs of maintenance of school district property that the governing board of the school district determines will not recur within a five-year period. Proceeds from a lease of school district property with an option to purchase may be deposited into a restricted fund for the routine repair of district facilities, as defined by the State Allocation Board, for up to a five-year period. In addition, the proceeds may be deposited in the general fund of the district for any general fund purpose if the school district governing board and the State Allocation Board have determined that the district has no anticipated need for additional sites or building construction for the five-year period following the sale or lease, and the district has no major deferred maintenance requirements. A school district that sold or leased real property pursuant to Section 39360 and that deposited the interest earned on those proceeds in the general fund of the school district in the 1986–87 or the 1987–88 fiscal years, may continue to deposit the interest into the general fund for operating expenses through June 30, 1991. In the 1991–92 fiscal year, and each fiscal year thereafter for five fiscal years, the school district shall reduce the deposit of interest by 20 percent and shall use the reduction in interest for capital outlay or for costs of deferred maintenance of school district property. The State Allocation Board may grant a school district permission to change the five-year and 20-percent requirement to 10 years and 10 percent, if the State

Allocation Board determines that the individual circumstances of the district warrants the change.

The proceeds may also be deposited into a special reserve fund for capital outlay, for costs of maintenance of school district property that the governing board determines will not recur within a five-year period, or for the future maintenance and renovation of schoolsites if the district governing board and the State Allocation Board have determined that the district has no anticipated need for schoolsites or building construction or major deferred maintenance projects for a five-year period following the sale or lease. Proceeds deposited in the special reserve fund shall not be available for general operating expenses as provided in Section 42842.

SEC. 2. Section 39363.2 is added to the Education Code, to read:

39363.2. Notwithstanding Section 39363, a school district having an average daily attendance of less than 10,001 in any fiscal year may deposit any and all interest earned on the funds derived from the sale in that fiscal year of surplus property into the general fund of the district for any general fund purpose, subject to the following conditions:

(a) Prior to that deposit, the district shall submit to the State Allocation Board a capital outlay plan for the district for a period of five years following that sale, together with a declaration of the finding by the governing board of the school district that the school facilities needs of the district can be met over that five-year period without funding or other assistance from any state school facilities funding program. No later than the date upon which that initial five-year period concludes, the district shall submit to the State Allocation Board a capital outlay plan for the district for the subsequent five-year period.

(b) Prior to the decision to place that interest money into the district's general fund, the governing board of the school district shall consider the extent to which it is necessary or appropriate to expend that money to meet the district's needs relative to capital outlay, facilities, modernization, and deferred maintenance. In addition, as to any interest money deposited into the district's general fund pursuant to this section, the governing board shall consider the extent to which it is necessary or appropriate to expend the money to meet the district's needs relative to ongoing maintenance prior to expending that money for any other purpose.

(c) A school district that deposits interest into its general fund pursuant to the authority set forth in this section shall not be eligible during the 10-year period described in subdivision (a) for funding or other assistance under Chapter 22 (commencing with Section 17700) or Chapter 25 (commencing with Section 17785) of Part 10, Sections 39618 to 39621, inclusive, or any other state school facilities funding program.

(d) If a school district seeks state funding pursuant to Chapter 22 (commencing with Section 17700), Chapter 25 (commencing with Section 17785) of Part 10, Sections 39618 to 39621, inclusive, or any

other state school facilities funding program, on or after the expiration of the 10-year period specified in subdivision (c), any state funding received by the district from such a program shall be reduced by any remaining funds derived from the sale of that surplus property by the district and any unencumbered interest earned on those funds.

CHAPTER 366

An act to add Section 8589.6 to the Government Code, relating to emergency services.

[Approved by Governor August 30, 1991. Filed with Secretary of State September 3, 1991.]

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

SECTION 1. Section 8589.6 is added to the Government Code, to read:

8589.6. (a) The Office of Emergency Services shall develop model guidelines for local government agencies and community-based organizations planning to develop a disaster registry program. Adoption of the model guidelines shall be voluntary. Local governmental agencies or community-based organizations wishing to establish a disaster registry program may consult with the Office of Emergency Services for further guidance.

(b) The guidelines required by subdivision (a) shall address, at a minimum, all of the following issues:

(1) A purpose statement specifying that the intent of the registry is not to provide immediate assistance during a local, state, or national disaster, to those who are registered, but to encourage that those registered will receive a phone call or visit from neighborhood disaster volunteers or other organizations specified in the final local plan as soon as possible after the disaster in order to check on their well-being and ask if they need assistance. This statement shall also specify that persons registered should be prepared to be self-sufficient for at least 72 hours.

(2) A list of persons eligible for the registry. This list shall include, but not be limited to, disabled persons, including those with developmental disabilities, the elderly, those for whom English is not a first language, persons who are unskilled or deficient in the English language, long-term health care facilities, residential community care facilities, and residential care facilities for the elderly.

(3) A statement specifying that the party responsible for responding to those registered will not be held liable for not responding.

(4) A plan for ensuring that hard data is available if computers shut down.

(5) A recommendation for those persons or organizations that would be appropriate to respond to persons on the disaster registry, and a plan for training the responsible party.

(6) A plan for community outreach to encourage those eligible to participate.

(7) A plan for distribution of preparedness materials to those eligible to participate in the disaster registry.

(8) Recommendations and assistance for obtaining federal and state moneys to establish a disaster registry.

(9) A recommendation that organizations currently providing services to persons who are eligible for the disaster registry program be encouraged to alter their information form to include a space on the form where the person has the option of registering for the program. By checking the box and giving approval to be registered for the program the person waives confidentiality rights. Despite this waiver of confidentiality rights, local government agencies and community-based organizations planning to develop a disaster registry are encouraged to do everything possible to maintain the confidentiality of their registries. Organizations that currently have lists of people who would be eligible to register for the program should be encouraged to share this information with persons establishing a disaster registry.

CHAPTER 367

An act to amend Section 2435 of the Business and Professions Code, relating to healing arts, and making an appropriation therefor.

[Approved by Governor August 30, 1991. Filed with Secretary of State September 3, 1991]

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

SECTION 1. Section 2435 of the Business and Professions Code is amended to read:

2435. The following fees apply to physician's and surgeon's certificates, certificates of drugless practitioners, and certificates to practice midwifery:

(a) Each applicant for a certificate based upon a national board diplomate certificate, and each applicant for a certificate based on reciprocity, and each applicant for a certificate based upon written examination, shall pay a nonrefundable application and processing fee, as set forth in subdivision (b), at the time the application is filed.

(b) The application and processing fee shall be fixed by the Division of Licensing by May 1 of each year, to become effective on July 1 of that year. The fee shall be fixed at an amount necessary to recover the actual costs of the licensing program as projected for the fiscal year commencing on the date the fees become effective.

(c) Each applicant for a certificate by written examination, unless otherwise provided by this chapter, shall pay an examination fee fixed by the board, which shall equal the actual cost to the board of the purchase of the written examination furnished by the organization pursuant to Section 2176, plus the actual cost to the board of administering the written examination. The actual cost to the board of administering the written examination that shall be charged to the applicant shall not exceed one hundred dollars ($100). The board may charge the examination fee provided for in this section for any subsequent reexamination of the applicant.

(d) Each applicant who qualifies for a certificate, as a condition precedent to its issuance, in addition to other fees required herein, shall pay an initial license fee, if any. The initial license fee shall be fixed by the board at an amount not to exceed five hundred dollars ($500), in accordance with paragraph (2) of subdivision (e). Any applicant enrolled in an approved postgraduate training program shall be required to pay only 50 percent of the initial license fee.

(e) (1) The biennial renewal fee shall be fixed by the board at an amount not to exceed five hundred dollars ($500), in accordance with paragraph (2).

(2) The board shall fix the biennial renewal fee and the initial license fee so that, together with the amounts from other revenues, the reserve balance in the board's contingent fund shall be equal to approximately two months of annual authorized expenditures. Any change in the renewal and initial license fees shall be effective upon a determination by the board, by emergency regulations adopted pursuant to Section 2436, that changes in the amounts are necessary to maintain a reserve balance in the board's contingent fund equal to two months of annual authorized expenditures in the state fiscal year in which the expenditures are to occur.

(f) Notwithstanding Section 163.5, the delinquency fee is 10 percent of the biennial renewal fee.

(g) The duplicate certificate and endorsement fees shall each be fifty dollars ($50), and the certification and letter of good standing fees shall each be ten dollars ($10).

(h) It is the intent of the Legislature that, in setting fees pursuant to this section, the board shall seek to maintain a reserve in the Contingent Fund of the Medical Board of California equal to approximately two months' operating expenditures.

(i) The board shall report to the appropriate policy and fiscal committees of each house of the Legislature whenever the board proposes or approves a fee increase pursuant to this section. The board shall specify the reasons for each increase and identify the percentage of funds to be derived from an increase in the fees that will be used for investigation or enforcement related activities by the board.

CHAPTER 368

An act to add Section 3260.1 to the Civil Code, relating to contracts.

[Approved by Governor August 30, 1991. Filed with Secretary of State September 3, 1991.]

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

SECTION 1. Section 3260.1 is added to the Civil Code, to read:

3260.1. (a) This section is applicable with respect to all contracts entered into on or after January 1, 1992, relating to the construction of any private work of improvement.

(b) Except as otherwise agreed in writing, the owner shall pay to the contractor, within 30 days following receipt of a demand for payment in accordance with the contract, any progress payment due thereunder as to which there is no good faith dispute between the parties. In the event of a dispute between the owner and the contractor, the owner may withhold from the progress payment an amount not to exceed 150 percent of the disputed amount. If any amount is wrongfully withheld in violation of this subdivision, the contractor shall be entitled to the penalty specified in subdivision (f) of Section 3260.

(c) Nothing in this section shall be deemed to supersede any requirement of Section 3260 respecting the withholding of retention proceeds.

CHAPTER 369

An act to add Sections 7251.05, 7251.3, and 7285.8 to, and to add and repeal Chapter 2.5 (commencing with Section 7286.1) of Part 1.7 of Division 2 of, the Revenue and Taxation Code, and to repeal Section 3 of Chapter 1257 of the Statutes of 1987, relating to schools, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 4, 1991 Filed with Secretary of State September 5, 1991]

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

SECTION 1. Section 7251.05 is added to the Revenue and Taxation Code, to read:

7251.05. Notwithstanding Section 7251.1, the combined rate of all taxes imposed pursuant to this part in the City and County of San Francisco shall not exceed 1.25 percent. No tax shall be considered in accordance with this part if, upon its adoption, the combined rate will exceed 1.25 percent.

SEC. 2. Section 7251.3 is added to the Revenue and Taxation

Code, to read:

7251.3. Notwithstanding Section 7251.1, the combined rate of all taxes imposed pursuant to this part in the County of San Mateo shall not exceed a rate that is 0.5 percent in excess of the maximum rate otherwise allowed under Section 7251.1, where revenues equal to the amount derived from that portion of the combined tax rate in excess of the maximum combined rate otherwise allowed under Section 7251.1 are allocated for the support of public elementary and secondary education in that county. Revenues from that excess tax rate shall not be expended in any manner that increases any entitlement to state funding on the part of any local educational agency.

SEC. 3. Section 7285.8 is added to the Revenue and Taxation Code, to read:

7285.8. (a) In addition to any authority established pursuant to Section 7285.5, the Board of Supervisors of the County of San Mateo may establish an authority for the support of public elementary and secondary education in that county. Any authority so established may impose a transactions and use tax at a rate of 0.5 percent for the support of public elementary and secondary education in the County of San Mateo, if all of the following requirements are met:

(1) The ordinance proposing that tax is approved by a two-thirds vote of the governing board of the authority, and is subject to any otherwise applicable voter approval requirement.

(2) The ordinance proposing that tax requires that revenues derived from the tax be allocated only for purposes of public elementary and secondary education within the County of San Mateo. Revenues from the tax, to the extent the tax exceeds the rate authorized under Section 7251.1, shall not be expended in any manner that increases any entitlement to state funding on the part of any local educational agency.

(3) The transactions and use tax conforms to Part 1.6 (commencing with Section 7251).

(b) (1) Revenues from any tax imposed pursuant to this section shall not be considered "allocated local proceeds of taxes" pursuant to Section 41202 of the Education Code or paragraph (2) of subdivision (b) of Section 8 of Article XVI of the California Constitution.

(2) Revenues from any tax imposed pursuant to this section shall supplement, and shall not be offset against, the allocations made pursuant to Section 2558 or 42238 of the Education Code.

SEC. 4. Chapter 2.5 (commencing with Section 7286.1) is added to Part 1.7 of Division 2 of the Revenue and Taxation Code, to read:

CHAPTER 2.5. LOCAL EDUCATION FINANCE

7286.1. (a) Upon the adoption of a resolution as specified by Section 7286.2 by the governing boards of the San Francisco Unified School District and the San Francisco Community College District,

there shall be established in the City and County of San Francisco an educational financing authority in accordance with that resolution. Any authority so established may adopt an ordinance imposing for the authority's general purpose a transactions and use tax at a rate of 0.25 percent, if all of the following requirements are met:

(1) The ordinance proposing that tax is approved by a two-thirds vote of the board of directors of the authority and by a majority of the qualified voters of the county voting on the measure, or any otherwise applicable voter requirement.

(2) The ordinance requires that the tax conform with Part 1.6 (commencing with Section 7251).

(3) The ordinance provides, upon the approval of a majority the qualified voters of the city and county voting on the approval of the ordinance, for an increase in the appropriations limit established pursuant to Article XIII B of the California Constitution for each school district within the city and county in an amount equal to, or greater than, the revenues derived from any transactions and use tax imposed pursuant to the ordinance that are allocated and received by that entity each fiscal year.

(4) The ordinance provides that the increases in appropriations limits shall terminate no later than four years after the effective date of the ordinance, and may be continued for successive periods not to exceed four years each upon the approval of a majority of the qualified voters of the school district voting on each continuation.

(b) With respect to the approval by the voters of an ordinance specified in subdivision (a), the city and county shall, if the ordinance so requests, call a special election for that purpose, to be held on a date specified by the ordinance, not less than 60 nor more than 103 days after the ordinance is adopted by the governing board of the educational finance authority.

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

7286.2. (a) A resolution establishing an educational financing authority pursuant to Section 7286.1 shall provide for the establishment of an educational finance authority for the general purpose of providing financial assistance to each school district within the city and county. The resolution shall require that the authority be governed by a board of directors. The board of directors of the authority shall consist of the members of the governing boards of the unified school district and the community college district. The resolution shall designate the president of the unified school district governing board as the chairperson of the board of directors.

(b) The resolution shall require the authority to allocate revenues derived from a transactions and use tax imposed pursuant to Section 7286.1 directly to each school district within the city and county on the basis of an equal amount for each unit of average daily

attendance, as defined by law.

(c) The resolution shall authorize the authority to exercise all powers necessary to perform collection, administration, and allocation duties with respect to the transactions and use tax, in a manner consistent with Part 1.6 (commencing with Section 7251).

(d) The resolution shall provide that the educational finance authority shall cease to exist 90 days after the expiration of any transactions and use tax imposed by that authority.

7286.3. (a) Revenues from any transactions and use tax imposed pursuant to Section 7286.1 shall not be considered "allocated local proceeds of taxes" pursuant to Section 41202 of the Education Code or paragraph (2) of subdivision (b) of Section 8 of Article XVI of the California Constitution.

(b) Revenues derived from any transactions and use tax imposed pursuant to Section 7286.1 shall supplement, and shall not be offset against, the allocations made pursuant to Section 2558 or 42238 of the Education Code.

7286.4. The city and county shall be reimbursed for all costs of conducting elections for purposes of imposing a transactions and use tax pursuant to this chapter. In the event the ordinance imposing the tax is approved by the voters, the costs of conducting the election shall be reimbursed by the educational financing authority from the proceeds of the tax. In the event the ordinance imposing the tax is not approved by the voters, the costs of conducting the election shall be reimbursed by the school districts in proportion to the amount of tax revenues each agency would have received had the ordinance been approved.

7286.5. (a) Unless the ordinance imposing the tax specifies an earlier date, any transactions and use tax imposed pursuant to this chapter shall be repealed on the later of the following dates:

(1) On January 1, 1993.

(2) The date that subdivision (a) of Section 6051.5 and subdivision (a) of Section 6201.5 cease to be operative pursuant to those sections.

(b) This chapter shall remain in effect only until the later of the following dates, and as of that date is repealed:

(1) On January 1, 1993.

(2) The date that subdivision (a) of Section 6051.5 and subdivision (a) of Section 6201.5 cease to be operative pursuant to those sections.

7286.6. For purposes of this chapter, a "school district" includes a community college district.

SEC. 5. Notwithstanding any other provision of law, the imposition and collection of any tax approved by the voters at an election held pursuant to Section 4 of this act prior to January 1, 1992, shall commence the first day of the first calendar month commencing more than 40 days after the election results are certified by the county registrar.

SEC. 6. Section 3 of Chapter 1257 of the Statutes of 1987 is repealed.

SEC. 7. The Legislature finds and declares that a special law is necessary and that a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution due to unique circumstances with respect to the needs of, and funding sources for, elementary and secondary schools in the County of San Mateo.

SEC. 8. The Legislature finds and declares that a special law is necessary and that a general law cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution due to unique fiscal needs and limitations with respect to the provision of educational services in the City and County of San Francisco.

SEC. 9. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

SEC. 10. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to provide authority for schools to obtain essential additional revenues at the earliest possible time, including during the entire 1991–92 fiscal year, it is necessary that this act take effect immediately.

CHAPTER 370

An act to add Section 5097.991 to the Public Resources Code, relating to Native Americans.

[Approved by Governor September 6, 1991 Filed with Secretary of State September 9, 1991.]

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

SECTION 1. The Legislature hereby finds and declares all of the following:

(a) Numerous agencies and organizations of the state, as well as private museums and universities, have in their possession the skeletal remains and associated grave artifacts of Native Americans.

(b) Some of these remains and artifacts are easily traceable to tribal origin and, in other instances, tribal origin can be inferred with reasonable certainty.

(c) Many in the Native American community have expressed a

strong interest in acquiring these skeletal remains and associated grave artifacts for purposes of reinterment or other disposition consistent with tribal religious or cultural practices.

(d) Many believe keeping these remains in institutional collections objectifies Native Americans and fosters the notion that these remains are collectibles.

(e) A method is needed to ensure the respectful return of these skeletal remains and associated grave artifacts.

SEC. 2. Section 5097.991 is added to the Public Resources Code, to read:

5097.991. It is the policy of the state that Native American remains and associated grave artifacts shall be repatriated.

CHAPTER 371

An act to amend Sections 4902 and 4903 of the Fish and Game Code, relating to game, and making an appropriation therefor.

[Approved by Governor September 8, 1991. Filed with Secretary of State September 9, 1991.]

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

SECTION 1. Section 4902 of the Fish and Game Code is amended to read:

4902. (a) The commission may adopt all regulations necessary to provide for biologically sound management of Nelson bighorn sheep (subspecies Ovis canadensis nelsoni).

(b) After the plans developed by the department pursuant to Section 4901 for the management units have been submitted, the commission may authorize sport hunting of mature Nelson bighorn rams. Prior to authorizing the sport hunting, the commission shall take into account the Nelson bighorn sheep population statewide, including the population in the management units designated for hunting.

Notwithstanding Section 219, the commission shall not, however, adopt regulations authorizing the sport hunting in a single year of more than 15 percent of the mature Nelson bighorn rams in a single management unit, as determined by the department by an annual count conducted in each management unit designated for sport hunting.

(c) The fee for a license tag to take a Nelson bighorn ram may be determined by the commission, but shall not exceed five hundred dollars ($500).

(d) The commission shall annually direct the department to authorize not more than three of the license tags available for issuance that year to take Nelson bighorn rams for the purpose of raising funds for programs and projects to benefit bighorn sheep.

These license tags may be sold at auction or by other method and shall not be subject to the fee limitation prescribed in subdivision (c). Commencing in 1992, and not less than every other year thereafter, the department shall designate a nonprofit organization organized pursuant to the laws of this state, or the California chapter of a nonprofit organization organized pursuant to the laws of another state, as the seller of these tags. If the commission has authorized the sale of more than one tag, the department may designate a nonprofit organization, which is neither organized pursuant to the laws of this state nor the California chapter of a nonprofit organization organized pursuant to the laws of this state, as the seller of one of the tags. The number of tags authorized for the purpose of raising funds pursuant to this subdivision, if more than one, shall not exceed 15 percent of the total number of tags authorized pursuant to subdivision (b).

(e) All tags sold by the department pursuant to this section shall be offered for sale only within this state. However, nonresidents may purchase tags offered for sale pursuant to subdivision (d).

(f) No license tag issued pursuant to this section shall be valid unless and until the licensee has successfully completed a prehunt hunter familiarization and orientation and has demonstrated to the department that he or she is familiar with the requisite equipment for participating in the hunting of bighorn rams, as determined by the commission. The orientation shall be conducted by the department at convenient locations and times preceding each season, as determined by the commission.

SEC. 2. Section 4903 of the Fish and Game Code is amended to read:

4903. Revenue from the fees authorized by this chapter shall be deposited in the Fish and Game Preservation Fund and shall be expended solely for purposes of the bighorn sheep program. Notwithstanding Sections 711 and 13004, this revenue, upon appropriation by the Legislature, shall be available for expenditure by the department solely for programs and projects to benefit bighorn sheep and for the direct costs and administrative overhead incurred solely in carrying out the department's bighorn sheep activities. Administrative overhead shall be limited to the reasonable costs associated with the direct administration of the program. These funds shall be used to augment, and not to replace, moneys appropriated from existing funds available to the department for the preservation, restoration, utilization, and management of bighorn sheep. The department shall maintain internal accountability necessary to ensure that all restrictions on the expenditure of these funds are met.

CHAPTER 372

An act to amend Sections 221.30 and 232 of the Civil Code, relating to adoption, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 8, 1991. Filed with Secretary of State September 9, 1991.]

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

SECTION 1. Section 221.30 of the Civil Code is amended to read:

221.30. All forms adopted by the department authorizing the release of an infant from a health facility to the custody of persons other than the person entitled to custody of the child pursuant to Section 197 and authorizing these other persons to obtain medical care for the infant shall contain a statement in boldface type delineating the various types of adoptions available, the birth parents' rights with regard thereto, including, but not limited to, rights with regard to revocation of consent to adoption, and a statement of Section 232 regarding the authority of the court to declare the child abandoned by the birth parent or parents.

SEC. 2. Section 232 of the Civil Code is amended to read:

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

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

If the parent has placed the child for adoption and has not refused to give the required consent to adoption, evidence of the adoptive placement shall not in itself preclude the court from finding an intent on the part of that parent to abandon the child. If the parent

has placed the child for adoption and has refused to give the required consent to adoption but has not taken reasonable action to obtain custody of the child, evidence of the adoptive placement shall not in itself preclude the court from finding an intent on the part of that parent to abandon the child.

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

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

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

(5) Whose parent or parents have been declared by a court of competent jurisdiction, wherever situated, to be developmentally disabled or mentally ill, if, in the state or country in which the parent or parents reside or are hospitalized, the Director of Mental Health or the Director of Developmental Services, or their equivalent, if any, and the superintendent of the hospital of which, if any, the parent or parents are inmates or patients, certify that the parent or parents so declared to be developmentally disabled or mentally ill will not be capable of supporting or controlling the child in a proper manner.

(6) Whose parent or parents are mentally disabled and are likely to remain so in the foreseeable future. As used in this subdivision, "mentally disabled" means that a parent or parents suffer any mental incapacity or disorder which renders the parent or parents unable to adequately care for and control the child. The evidence of any two experts, each of whom shall be either a physician and surgeon, certified either by the American Board of Psychiatry and Neurology or under Section 6750 of the Welfare and Institutions Code, or a

licensed psychologist who has a doctoral degree in psychology and at least five years of postgraduate experience in the diagnosis and treatment of emotional and mental disorders, shall be required to support a finding under this subdivision. If, however, the parent or parents reside in another state or in a foreign country, the evidence required by this subdivision may be supplied by the affidavits of two experts, each of whom shall be either a physician and surgeon who is a resident of that state or foreign country, and who has been certified by a medical organization or society of that state or foreign country to practice psychiatric or neurological medicine, or by a licensed psychologist who has a doctoral degree in psychology and at least five years of postgraduate experience in the diagnosis and treatment of emotional and mental disorders and who is licensed in that state or authorized to practice in that country. If the rights of any parent are sought to be terminated pursuant to this subdivision, and the parent has no attorney, the court shall appoint an attorney for the parent pursuant to Section 237.5, whether or not a request for the appointment is made by the parent.

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

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

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

If the minor has been adjudged to be a dependent child of the court pursuant to Section 300 of the Welfare and Institutions Code, the court shall review and consider the contents of the juvenile court

file in determining if the services offered were reasonable under the circumstances.

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

(8) A minor who has been found to be a dependent child of the juvenile court and the juvenile court has determined, pursuant to paragraph (3), (4), or (5) of subdivision (b) of Section 361.5 of the Welfare and Institutions Code, that reunification services shall not be provided to the minor's parent or guardian.

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

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

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

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

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

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

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

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

(d) Sections 4600 and 5158 shall not apply to proceedings pursuant to this section.

(e) This section does not apply to minors adjudged dependent children of the juvenile court pursuant to subdivision (c) of Section 360 of the Welfare and Institutions Code on and after January 1, 1989, during the period in which the minor is a dependent child of the court. For those minors, Section 366.26 of the Welfare and Institutions Code and Sections 221.20, 222.10, and 7017 of this code provide the exclusive means for the termination of parental rights.

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

In order to provide courts with the authority to declare that a child has been abandoned under specified circumstances at the earliest possible time, it is necessary for this act to take effect immediately as an urgency statute.

CHAPTER 373

An act to amend Section 324.2 of, and to add Section 324.3 to, the Health and Safety Code, relating to child health.

[Approved by Governor September 8, 1991. Filed with Secretary of State September 9, 1991.]

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

SECTION 1. Section 324.2 of the Health and Safety Code is amended to read:

324.2. (a) In cooperation with the county child health and disability prevention program, the governing body of every school district or private school which has children enrolled in kindergarten shall provide information to the parents or guardians of all children enrolled in kindergarten of the provisions of this article. Every school district or private school which has children enrolled in the first grade shall report by January 15 of each year to the county child health and disability prevention program, the State Department of Health Services, and the State Department of Education the following information:

(1) The total number of children enrolled in first grade.

(2) The number of children who have had a health screening examination, as evidenced by the certificate required by Section 323.5.

(3) The number of children whose parents or guardian have given written waiver pursuant to Section 323.5 that they do not want their child to receive a health screening examination.

(b) Each county child health and disability prevention program shall reimburse school districts for information provided pursuant to this section. The Superintendent of Public Instruction may withhold state average daily attendance funds to any school district for any child for whom a certification or parental waiver is not obtained.

SEC. 2. Section 324.3 is added to the Health and Safety Code, to read:

324.3. (a) This section shall be known and may be cited as the Hughes Children's Health Enforcement Act.

(b) The Legislature recognizes the importance of health to learning and to a successful academic career. The Legislature also recognizes the important role of schools in ensuring the health of pupils through health education and maintenance of minimal health standards among the pupil population. Therefore, it is the intent of the Legislature that schools ensure that pupils receive a health screening before the end of the first grade.

(c) The State Department of Health Services shall compile district information and report to the Legislature the percentage levels of compliance by school districts with Section 324.2 on an annual basis commencing January 1, 1994, utilizing data from the

1990–91 school year.

(d) The governing board of each school district shall exclude from school, upon enrollment, any first grade pupil, for up to five days, that lacks a health screening or waiver as specified in Section 323.5, unless the parent or guardian accomplishes one of the following:

(1) Supplies evidence that the child has obtained a health screening.

(2) Produces evidence of an appointment to obtain a health screening within 14 days, and subsequently supplies evidence that a health screening was conducted within three months of enrollment.

(3) Signs a waiver for the health screening.

(e) School districts may waive the exclusion pursuant to subdivision (d) if the district has contacted the parent or guardian at least twice and the parent or guardian refuses to either obtain a health screening, or sign a waiver.

(f) The number of waivers granted by a school district for exclusions required by subdivision (d) may not exceed 5 percent of a school district's first grade enrollment. It is the intent of the Legislature that waivers of exclusion be used in extraordinary circumstances, including, but not limited to, family situations of great dysfunction or disruption, such as substance abuse by parents or guardians, child abuse, or child neglect. For the purposes of calculating this 5 percent maximum, refusal to obtain a health screening or sign a waiver by a parent or guardian pursuant to subdivision (e) shall not constitute a waiver pursuant to subdivision (d).

(g) It is the intent of the Legislature that the governing board of each school district notify parents upon enrollment of the child in kindergarten or first grade of the obligation of parents to comply with subdivision (d) and inform parents or guardians of the availability for low-income children of free health screening for up to 18 months prior to entry into first grade through the Child Health Disabilities Prevention Program, pursuant to Section 24165.3.

(h) It is the intent of the Legislature that school districts provide information to parents regarding the health screening requirement within the same notification of immunization requirements. Moreover, the Legislature intends that the information sent to parents, should encourage parents to obtain health screenings simultaneously with immunizations.

SEC. 2.5. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become

operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 374

An act to add Section 10262.3 to the Public Contract Code, relating to state contracts.

[Approved by Governor September 8, 1991. Filed with Secretary of State September 9, 1991.]

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

SECTION 1. Section 10262.3 is added to the Public Contract Code, to read:

10262.3. To facilitate enforcement of Section 10262, the Department of General Services shall publish in the California State Contracts Register notice of progress payments made to prime contractors.

CHAPTER 375

An act to add Section 44832 to the Education Code, relating to teachers.

[Approved by Governor September 8, 1991. Filed with Secretary of State September 9, 1991]

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

SECTION 1. Section 44832 is added to the Education Code, to read:

44832. (a) Notwithstanding Section 44842, and except for employees who are notified pursuant to Section 44955, each classroom teacher shall, by May 15 of each year, inform the employing school district whether he or she intends to return to a teaching position for the following school year.

(b) The school district and the exclusive bargaining representative may agree to include provisions regarding the requirements of subdivision (a) in any collective bargaining agreement applying to classroom teachers.

(c) This section shall apply only to teachers in school districts having an average daily attendance of less than 2,500.

CHAPTER 376

An act to amend Section 7299.4 of, and to add Section 7299.1 to, the Government Code, relating to public services.

[Approved by Governor September 8, 1991. Filed with Secretary of State September 9, 1991.]

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

SECTION 1. Section 7299.1 is added to the Government Code, to read:

7299.1. State agencies may, utilizing existing funds, contract for telephone based interpretation services in addition to employing bilingual persons in public contact positions.

SEC. 2. Section 7299.4 of the Government Code is amended to read:

7299.4. Each state agency shall conduct a survey of each of its local offices every two years to determine all of the following:

(a) The number of public contact positions in each local office.

(b) The number of bilingual employees in public contact positions, and the languages they speak, other than English.

(c) The number and percentage of non-English-speaking people served by each local office, broken down by native language.

(d) The number of anticipated vacancies in public contact positions.

(e) Whether the use of contracted telephone based interpretation services in addition to bilingual persons in public contact positions is serving the language needs of the people served by the agency.

(f) Any other relevant information requested by the State Personnel Board.

Each agency shall calculate the percentage of non-English-speaking people served by each local office by rounding the percentage arrived at to the nearest whole percentage point.

The survey results shall be reported on forms provided by the State Personnel Board, and delivered to the board not later than March 31 of every even-numbered year beginning with 1992.

CHAPTER 377

An act to amend Section 1203.1h of the Penal Code, relating to sexual assault.

[Approved by Governor September 8, 1991. Filed with Secretary of State September 9, 1991.]

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

SECTION 1. Section 1203.1h of the Penal Code is amended to read:

1203.1h. (a) In addition to any other costs which a court is authorized to require a defendant to pay, upon conviction of any offense involving child abuse or neglect, the court may require that the defendant pay to a law enforcement agency incurring the cost, the cost of any medical examinations conducted on the victim in order to determine the nature or extent of the abuse or neglect. If the court determines that the defendant has the ability to pay all or part of the medical examination costs, the court may set the amount to be reimbursed and order the defendant to pay that sum to the law enforcement agency in the manner in which the court believes reasonable and compatible with the defendant's financial ability. In making a determination of whether a defendant has the ability to pay, the court shall take into account the amount of any fine imposed upon the defendant and any amount the defendant has been ordered to pay in restitution.

(b) In addition to any other costs which a court is authorized to require a defendant to pay, upon conviction of any offense involving sexual assault or attempted sexual assault, including child molestation, the court may require that the defendant pay, to the law enforcement agency, county, or local governmental agency incurring the cost, the cost of any medical examinations conducted on the victim for the collection and preservation of evidence. If the court determines that the defendant has the ability to pay all or part of the cost of the medical examination, the court may set the amount to be reimbursed and order the defendant to pay that sum to the law enforcement agency, county, or local governmental agency, in the manner in which the court believes reasonable and compatible with the defendant's financial ability. In making the determination of whether a defendant has the ability to pay, the court shall take into account the amount of any fine imposed upon the defendant and any amount the defendant has been ordered to pay in restitution. In no event shall a court penalize an indigent defendant by imposing an additional period of imprisonment in lieu of payment.

CHAPTER 378

An act to amend Section 11041 of the Government Code, relating to legal services.

[Approved by Governor September 8, 1991. Filed with Secretary of State September 9, 1991.]

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

SECTION 1. Section 11041 of the Government Code is amended to read:

11041. (a) Sections 11042 and 11043 do not apply to the Regents of the University of California, the Trustees of the California State University, Legal Division of the Department of Public Works, Division of Labor Standards Enforcement of the Department of Industrial Relations, Workers' Compensation Appeals Board, Public Utilities Commission, State Compensation Insurance Fund, Legislative Counsel Bureau, Inheritance Tax Department, Secretary of State, State Lands Commission, Alcoholic Beverage Control Appeals Board (except when the board affirms the decision of the Department of Alcoholic Beverage Control), State Department of Education, and Treasurer with respect to bonds, nor to any other state agency which, by law enacted after Chapter 213 of the Statutes of 1933, is authorized to employ legal counsel.

(b) The Trustees of the California State University shall pay the cost of employing legal counsel from their existing resources.

CHAPTER 379

An act to amend Sections 31104, 31115, and 31500 of the Corporations Code, relating to franchises.

[Approved by Governor September 8, 1991. Filed with Secretary of State September 9, 1991.]

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

SECTION 1. Section 31104 of the Corporations Code is amended to read:

31104. There shall be exempted from the provisions of Chapter 2 (commencing with Section 31110) of this part the offer and sale of a franchise if the franchisor:

(a) Is a petroleum corporation or distributor who is a wholesale distributor or marketer of petroleum products; doing business continuously for the past five years and who does not require an advance of funds in the nature of a fee or lease for such franchise agreements; not engaged in the production or the refining of

petroleum; and

(b) Complies with the provisions of subdivisions (c) and (d) of Section 31101.

(c) For the purposes of subdivision (a) of this section:

(1) A "wholesale distributor" or "marketer" means any entity which, for wholesale, purchases or receives through transfer, or otherwise obtains, by consignment or otherwise, refined petroleum products and resells or otherwise transfers such products, without substantially changing their form, to other purchasers.

(2) An "advance of funds" means (A) a fee or lease for a franchise agreement, and (B) does not mean rent for the possession or use, or both, of premises or property, the purchase of inventory for resale or supplies, utility deposits, and other consideration or expenditures for the formation or operation, or both, of a wholesale distributor or marketer entity.

SEC. 2. Section 31115 of the Corporations Code is amended to read:

31115. The commissioner may summarily issue a stop order denying the effectiveness of or suspending or revoking effectiveness of any registration if the commissioner finds:

(a) That there has been a failure to comply with any of the provisions of this law or the rules of the commissioner pertaining thereto.

(b) That the offer or sale of the franchise would constitute misrepresentation to, or deceit or fraud of the purchasers, or that, in the case of a franchise other than a subfranchise, a major inducement to prospective franchisees is fees or other compensation from participation in the sale of additional franchises.

(c) That the applicant has failed to comply with any rule or order of the commissioner issued pursuant to Section 31113.

(d) That any person identified in the application or any officer or director of the franchisor, whether or not identified in the application, meets one or more of the following conditions, and the involvement of this person in the sale or management of the franchise creates an unreasonable risk to prospective franchisees:

(1) Has been convicted of a felony, or pleaded nolo contendere to a felony charge, or held liable in a civil action by final judgment if the felony or civil action involved fraud, embezzlement, fraudulent conversion, or misappropriation of property.

(2) Is subject to any currently effective order of the Securities and Exchange Commission or the securities administrator of any state denying registration to or revoking or suspending the registration of the person as a securities broker or dealer or investment adviser or is subject to any currently effective order of any national securities association or national securities exchange (as defined in the Securities and Exchange Act of 1934) suspending or expelling the person from membership in the association or exchange.

(3) Is subject to any currently effective order or ruling of the Federal Trade Commission.

(4) Is subject to any currently effective injunctive or restrictive order relating to business activity as a result of an action brought by any public agency or department, including, without limitation, actions affecting a license as a real estate broker or sales person.

SEC. 3. Section 31500 of the Corporations Code is amended to read:

31500. (a) The commissioner shall charge and collect the fees fixed by this section. All fees and charges collected under this section shall be transmitted to the Treasurer at least weekly, accompanied by a detailed statement thereof and shall be credited to the General Fund.

(b) The fee for filing an application for registration of the offer of franchises under Section 31111 is six hundred seventy-five dollars ($675).

(c) The fee for filing an application for renewal of a registration under Section 31121 is four hundred fifty dollars ($450).

(d) The fee for filing an amendment to the application filed under Section 31111 or 31121 after the effective date of the registration of the offer of franchises, is fifty dollars ($50).

(e) The fee for filing an application for material modification under Section 31125 is fifty dollars ($50), whether or not it accompanies an application under Section 31111 or 31121.

(f) The fee for filing the initial notice of exemption under Section 31101 is four hundred fifty dollars ($450) and the fee for filing each consecutive subsequent notice of exemption under these provisions is one hundred fifty dollars ($150).

(g) The fee for filing an application for approval of a written notice of violation under Section 31303 or 31304 is six hundred seventy-five dollars ($675).

CHAPTER 380

An act to amend Sections 1871.3, 10509, 10509.2, 10509.3, 10509.4, 10509.6, 10509.8, and 10509.9 of the Insurance Code, relating to insurance.

[Approved by Governor September 8, 1991. Filed with Secretary of State September 9, 1991.]

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

SECTION 1. Section 1871.3 of the Insurance Code is amended to read:

1871.3. (a) In the case of any claim arising from the theft of an insured vehicle, prior to the settlement of the claim, the insurer shall secure from the insured a claim form which shall contain, among other things, the following:

(1) A warning that false representations made on the signed claim

form by the insured subject the insured to a penalty of perjury.

(2) A detailed description of the insured vehicle including the interior, exterior, and any special equipment.

(3) The purchase location of the insured vehicle, the purchase date, and the name of the seller.

(4) A detailed statement of the circumstances surrounding the theft.

(5) The current driver's license number of the insured, except where the vehicle is owned by a person that is not a natural person, or the claimant is a financial institution and the vehicle is insured pursuant to an insurance policy issued to the financial institution to protect vehicles that are collateral securing any loan made by the financial institution. A financial institution shall provide, to the extent it has the information, the current driver's license number of the registered owner of the vehicle or the debtor who has obtained the loan.

(b) For purposes of complying with the requirements of subdivision (a), the insured shall do either of the following:

(1) Sign the claim form in the presence of the insurance agent, broker, adjuster, or other claims representative, who shall verify the driver's license number of the insured who is signing the claim form.

(2) Submit a claim form with a notarized signature.

(c) The claim form shall be signed under penalty of perjury.

(d) The insurer shall retain the following for at least three years:

(1) All settlement checks in settlement of the theft of an automobile.

(2) The original claim form provided for in subdivision (a).

(3) A legible copy of the police report of the vehicle theft.

SEC. 1.5. Section 10509 of the Insurance Code is amended to read:

10509. The purpose of this article is the following:

(a) To regulate the activities of insurers and agents with respect to the replacement of existing life insurance and annuities.

(b) To protect the interests of life insurance and annuity purchasers by establishing minimum standards of conduct to be observed in replacement transactions by the following:

(1) Assuring that the purchaser receives information with which a decision can be made in his or her own best interest.

(2) Reducing the opportunity for misrepresentation and incomplete disclosures.

(3) Establishing penalties for failure to comply with the requirements of this article.

SEC. 2. Section 10509.2 of the Insurance Code is amended to read:

10509.2. (a) "Replacement" means any transaction in which new life insurance or a new annuity is to be purchased, and it is known or should be known to the proposing agent, or to the proposing insurer if there is no agent, that by reason of that transaction, the existing life insurance or annuity has been or is to be

any of the following:

(1) Lapsed, forfeited, surrendered, or otherwise terminated.

(2) Converted to reduced paid-up insurance, continued as extended term insurance, or otherwise reduced in value by the use of nonforfeiture benefits or other policy values.

(3) Amended so as to effect either a reduction in benefits or in the term for which coverage would otherwise remain in force or for which benefits would be paid.

(4) Reissued with any reduction in cash value.

(5) Pledged as collateral or subjected to borrowing, whether in a single loan or under a schedule of borrowing over a period of time for amounts in the aggregate exceeding 25 percent of the loan value set forth in the policy.

(b) "Conservation" means any attempt by the existing insurer or its agent to dissuade a policyowner from the replacement of existing life insurance or annuity. Conservation does not include routine administrative procedures such as late payment reminders, late payment offers, or reinstatement offers.

(c) "Direct-response sales" means any sale of life insurance or annuity where the insurer does not utilize an agent in the sale or delivery of the policy.

(d) "Existing insurer" means the insurer whose policy is or will be changed or terminated in such a manner as described within the definition of "replacement."

(e) "Existing life insurance or annuity" means any life insurance or annuity in force including life insurance under a binding or conditional receipt or a life insurance policy that is within an unconditional refund period.

(f) "Replacing insurer" means the insurer that issues a new policy which is a replacement of existing life insurance or annuity.

(g) "Registered contract" means variable annuities, investment annuities, variable life insurance under which the death benefits and cash values vary in accordance with unit values of investments held in a separate account, or any other contracts issued by life insurers which are registered with the Federal Securities and Exchange Commission.

SEC. 3. Section 10509.3 of the Insurance Code is amended to read:

10509.3. (a) Unless otherwise specifically included, this article does not apply to the following:

(1) Credit life insurance.

(2) Group life insurance or group annuities.

(3) An application to the existing insurer that issued the existing life insurance when a contractual change or a conversion privilege is being exercised.

(4) Proposed life insurance that is to replace life insurance under a binding or conditional receipt issued by the same insurer.

(5) Transactions where the replacing insurer and the existing insurer are the same; provided, however, that agents proposing

replacement shall:

(A) Comply with the requirements of subdivisions (a) and (d) of Section 10509.4.

(B) Provide and leave with the applicant a written statement containing information relating to premiums, cash values, death benefits, and outstanding indebtedness, and dividends and dividend accumulations, if any, for the existing policy, both immediately before and after replacement, and for the proposed life insurance or annuity.

(b) Registered contracts shall be exempt from the requirements of paragraphs (2) and (3) of subdivision (b) of Section 10509.6 requiring provision of policy summary or ledger statement information; however, premium or contract contribution amounts and identification of the appropriate prospectus or offering circular shall be required in lieu thereof.

SEC. 4. Section 10509.4 of the Insurance Code is amended to read:

10509.4. (a) Each agent who accepts an application shall submit to the insurer with which an application for life insurance or annuity is presented, or as part of each application, both of the following:

(1) A statement signed by the applicant as to whether replacement of existing life insurance or annuity is involved in the transaction.

(2) A signed statement as to whether or not the agent knows replacement is or may be involved in the transaction.

(b) Where a replacement is involved, the agent shall do all of the following:

(1) Present to the applicant, not later than at the time of taking the application, a "Notice Regarding Replacement of Life Insurance" in the form as described in subdivision (d). The notice shall be signed by both the applicant and the agent and left with the applicant. Obtain with or as part of each application a list of all existing life insurance or annuities to be replaced and properly identified by name of insurer, the insured and contract number. If a contract number has not been assigned by the existing insurer, alternative identification, such as an application or receipt number, shall be listed.

(2) Leave with the applicant the original or a copy of all printed communications used for presentation to the applicant.

(3) Submit to the replacing insurer with the application a copy of the replacement notice.

(c) Every agent who uses written or printed communications in conservation shall leave with the applicant the originals of any materials used.

(d) Each agent or broker shall present to an applicant the following notice:

NOTICE REGARDING REPLACEMENT

REPLACING YOUR LIFE INSURANCE POLICY OR ANNUITY?

Are you thinking about buying a new life insurance policy or annuity and discontinuing or changing an existing one? If you are, your decision could be a good one—or a mistake. You will not know for sure unless you make a careful comparison of your existing benefits and the proposed benefits.

Make sure you understand the facts. You should ask the company or agent that sold you your existing policy to give you information about it.

Hear both sides before you decide. This way you can be sure you are making a decision that is in your best interest.

We are required by law to notify your existing company that you may be replacing their policy.

(applicant)	(agent)	(date)

SEC. 5. Section 10509.6 of the Insurance Code is amended to read:

10509.6. Every life insurer that uses an agent in a life insurance or annuity sale shall do the following:

(a) Require with, or as part of each completed application for life insurance or annuity, a statement signed by the agent as to whether he or she knows replacement is or may be involved in the transaction.

(b) Where a replacement is involved:

(1) Require from the agent with the application for life insurance or annuity: (i) a list of all of the applicant's existing life insurance or annuity to be replaced, and (ii) a copy of the replacement notice provided the applicant pursuant to Section 10509.4. The existing life insurance or annuity shall be identified by name of insurer, insured, and contract number. If a number has not been assigned by the existing insurer, alternative identification, such as an application or receipt number shall be listed.

(2) Send to each existing life insurer a written communication advising of the replacement or proposed replacement and the identification information obtained pursuant to this section and a policy summary, contract summary, or ledger statement containing policy data on the proposed life insurance or annuity. Cost indices and equivalent level annual dividend figures need not be included in the policy summary or ledger statement. This written communication shall be made within three working days of the date the application is received in the replacing insurer's home or regional office, or the date the proposed policy or contract is issued, whichever is sooner.

(3) Every existing life insurer or the insurer's agent that

undertakes a conservation shall, within 20 days from the date the written communication plus the materials required in subdivisions (1) and (2) are received by the existing insurer, furnish the policyowner with a policy summary for the existing life insurance or ledger statement containing policy data on the existing policy or annuity. Information relating to premiums, cash values, death benefits, and dividends, if any, shall be computed from the current policy year of the existing life insurance. The policy summary or ledger statement shall include the amount of any outstanding indebtedness, the sum of any dividend accumulations or additions, and may include any other information that is not in violation of any regulation or statute. Cost indices and equivalent level annual dividend figures need not be included. When annuities are involved, the disclosure information shall be that in the contract summary.

The replacing insurer may request the existing insurer to furnish it with a copy of the summaries or ledger statement, which shall be within five working days of the receipt of the request.

(c) The replacing insurer shall maintain evidence of the "notice regarding replacement," the policy summary, the contract summary and any ledger statements used, and a replacement register, cross-indexed by replacing agent and existing insurer to be replaced. The existing insurer shall maintain evidence of policy summaries, contract summaries, or ledger statements used in any conservation. Evidence that all requirements were met shall be maintained for at least three years.

(d) The replacing insurer shall provide in its policy or in a separate written notice which is delivered with the policy that the applicant has a right to an unconditional refund of all premiums paid which right may be exercised within a period of 20 days commencing from the date of delivery of the policy.

SEC. 6. Section 10509.8 of the Insurance Code is amended to read:

10509.8. (a) A violation of this article shall occur if an agent or insurer recommends the replacement or conservation of an existing policy by use of a materially inaccurate presentation or comparison of an existing contract's premiums and benefits or dividends and values, if any.

(b) Patterns of action by policyowners who purchase replacement policies from the same agent after indicating on applications that replacement is not involved, shall constitute a rebuttable presumption of the agent's knowledge that replacement was intended in connection with the sale of those policies, and such patterns of action shall constitute a rebuttable presumption of the agent's intent to violate this article.

(c) This article does not prohibit the use of additional material other than that which is required that is not in violation of this article or any other statute or regulation.

SEC. 7. Section 10509.9 of the Insurance Code is amended to read:

10509.9. (a) Any agent or other person or entity engaged in the business of insurance, other than an insurer, who violates this article is liable for administrative penalties of no less than two hundred fifty dollars ($250) for the first violation.

(b) Any agent or other person or entity engaged in the business of insurance, other than an insurer, who engages in practices prohibited by this chapter a second or subsequent time or who commits a knowing violation of this article, is liable for administrative penalties of no less than one thousand dollars ($1,000) and no more than twenty-five thousand dollars ($25,000) for each violation.

(c) Any insurer who violates this article is liable for administrative penalties of no less than two thousand five hundred dollars ($2,500) for the first violation.

(d) Any insurer who violates this article with a frequency as to indicate a general business practice or commits a knowing violation of this article, is liable for administrative penalties of no less than ten thousand dollars ($10,000) and no more than one hundred thousand dollars ($100,000) for each violation.

(e) Nothing in this section shall be deemed to affect any other authority provided by law to the commissioner.

CHAPTER 381

An act to amend Section 48000 of the Education Code, relating to kindergarten.

[Approved by Governor September 8, 1991 Filed with Secretary of State September 9, 1991.]

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

SECTION 1. Section 48000 of the Education Code is amended to read:

48000. (a) A child shall be admitted to a kindergarten at the beginning of a school year, or at any later time in the same year if the child will have his or her fifth birthday on or before December 2 of that school year.

A child who will have his or her fifth birthday on or before December 2 may be admitted to the prekindergarten summer program maintained by the school district for pupils who will be enrolling in kindergarten in September.

(b) The governing board of any school district maintaining one or more kindergartens may, on a case-by-case basis, admit to a kindergarten a child having attained the age of five years at any time during the school year with the approval of the parent or guardian, subject to the following conditions:

(1) The governing board determines that the admittance is in the

best interests of the child.

(2) The parent or guardian is given information regarding the advantages and disadvantages and any other explanatory information about the effect of this early admittance.

CHAPTER 382

An act to amend Section 1091.5 of the Government Code, and to amend Section 14030 of the Public Contract Code, relating to public officials.

[Approved by Governor September 8, 1991 Filed with Secretary of State September 9, 1991.]

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

SECTION 1. Section 1091.5 of the Government Code is amended to read:

1091.5. (a) An officer or employee shall not be deemed to be interested in a contract if his or her interest is any of the following:

(1) The ownership of less than 3 percent of the shares of a corporation for profit, provided the total annual income to him or her from dividends, including the value of stock dividends, from the corporation does not exceed 5 percent of his or her total annual income, and any other payments made to him or her by the corporation do not exceed 5 percent of his or her total annual income.

(2) That of an officer in being reimbursed for his or her actual and necessary expenses incurred in the performance of official duty.

(3) That of a recipient of public services generally provided by the public body or board of which he or she is a member, on the same terms and conditions as if he or she were not a member of the board.

(4) That of a landlord or tenant of the contracting party if such contracting party is the federal government or any federal department or agency, this state or an adjoining state, any department or agency of this state or an adjoining state, any county or city of this state or an adjoining state, or any public corporation or special, judicial, or other public district of this state or an adjoining state unless the subject matter of such contract is the property in which such officer or employee has such interest as landlord or tenant in which event his or her interest shall be deemed a remote interest within the meaning of, and subject to, the provisions of Section 1091.

(5) That of a tenant in a public housing authority created pursuant to Part 2 (commencing with Section 34200) of Division 24 of the Health and Safety Code in which he or she serves as a member of the board of commissioners of the authority or of a community development commission created pursuant to Part 1.7 (commencing

with Section 34100) of Division 24 of the Health and Safety Code.

(6) That of a spouse of an officer or employee of a public agency in his or her spouse's employment or officeholding if his or her spouse's employment or officeholding has existed for at least one year prior to his or her election or appointment.

(7) That of a nonsalaried member of a nonprofit corporation, provided that such interest is disclosed to the body or board at the time of the first consideration of the contract, and provided further that such interest is noted in its official records.

(8) That of a noncompensated officer of a nonprofit, tax-exempt corporation, which, as one of its primary purposes, supports the functions of the body or board or to which the body or board has a legal obligation to give particular consideration, and provided further that such interest is noted in its official records.

For purposes of this paragraph an officer is "noncompensated" even though he or she receives reimbursement from the nonprofit, tax-exempt corporation for necessary travel and other actual expenses incurred in performing duties of his or her office.

(9) That of compensation for employment with a governmental agency, other than the governmental agency that employs the officer or employee, provided that the interest is disclosed to the body or board at the time of consideration of the contract, and provided further that the interest is noted in its official record.

(b) An officer or employee shall not be deemed to be interested in a contract made pursuant to competitive bidding under a procedure established by law if his or her sole interest is that of an officer, director, or employee of a bank or savings and loan association with which a party to the contract has the relationship of borrower or depositor, debtor or creditor.

SEC. 2. Section 10430 of the Public Contract Code is amended to read:

10430. This chapter does not apply to any of the following:

(a) The Regents of the University of California.

(b) Transactions covered under Chapter 3 (commencing with Section 12100).

(c) Except as otherwise provided in this chapter, any entity exempted from the provisions of Section 10295. However, the Trustees of the California State University shall be governed by this chapter except with regard to transactions covered under the California State University and Colleges Contract Law, and except as provided in Sections 10295, 10335, 10356, and 10389.

(d) Transactions covered under Chapter 10 (commencing with Section 4525) of Division 5 of Title 1 of the Government Code.

(e) Except as provided for in subdivision (c), members of boards or commissions who receive no payment other than payment of each meeting of the board or commission, payment for preparatory time, and payment for per diem.

(f) The emergency purchase of protective vests for correctional peace officers whose duties require routine contact with state prison

inmates. This subdivision shall remain operative only until January 1, 1987.

(g) Spouses of state officers or employees and individuals and entities that employ spouses of state officers and employees, that are vendored to provide services to regional center clients pursuant to Section 4648 of the Welfare and Institutions Code; provided, however, that the vendor of services, in that capacity, does not receive any material financial benefit, distinguishable from the benefit to the public generally, from any governmental decision made by the state officer or employee.

CHAPTER 383

An act to amend Section 14529.11 of the Government Code, relating to highways.

[Approved by Governor September 8, 1991. Filed with Secretary of State September 9, 1991.]

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

SECTION 1. Section 14529.11 of the Government Code is amended to read:

14529.11. The following conditions apply to projects in the state highway system which are financed, in whole or in part, from retail transactions and use taxes as part of an identified expenditure plan or those projects to which the department has determined that subdivision (b) of Section 14529.12 is applicable.

(a) A local jurisdiction which chooses to provide its own financing for the construction or improvement of a state highway shall be responsible for determining the priority and delivery schedule of locally funded projects. The jurisdiction shall consult with the department in determining the schedules.

(b) The local jurisdiction shall request that the department, as the state agency responsible for determining the final concept and location of projects in the state highway system, prepare, or cause to be prepared, initial project reports in conjunction with the local jurisdiction. The request shall accompany or be predicated on a strategic plan developed by the local jurisdiction which includes information on the description, priority, and delivery schedule of all projects proposed by the local jurisdiction to be financed by retail transactions and use taxes. The department shall review the strategic plan to assess the department's long-term resource capabilities, and shall develop and submit a recommendation to the local jurisdiction for the management and conduct of all phases of the work to meet the priorities established by the local jurisdiction.

(c) The department shall use the initial project report prepared pursuant to subdivision (b) to determine and obtain initial

agreements with the local jurisdiction on feasibility, concept, estimates, staging, limits, environmental considerations, and schedules. The department shall prepare the initial project report at state expense and within a timeframe established jointly by the local jurisdiction and the department. The local jurisdiction shall provide, at its expense, appropriate existing technical and financial information that may be needed to prepare the initial project report and may, at its option, provide other data to expedite preparation and approval, including draft initial project reports prepared with the approval of the department. After the department and the local jurisdiction have provided their initial approval, any change in project scope that causes any change in cost estimates or schedule shall be agreed upon by the local jurisdiction, the department and, where appropriate, the Federal Highway Administration.

(d) Upon completion of the initial project report, or at a time deemed appropriate by the local jurisdiction, the department shall respond within 30 days to a request from the local jurisdiction to prepare, or cause to be prepared, all project development work through environmental clearance for those projects financed by retail transactions and use taxes. The local jurisdiction's request shall include the local jurisdiction's final determination of the priority and delivery schedule of proposed projects. The determination may, but is not required to, match the initial agreements reached in the initial project report. If the department determines that it is able to comply with the request, the state shall pay for the project development work through environmental clearance. If the department determines it is unable to comply with the request, the local jurisdiction may proceed with project development pursuant to Section 14529.12. If the department and the local jurisdiction concur, the local jurisdiction may undertake project development work through environmental clearance at its own expense, under the oversight of the department. The cost of oversight shall be borne by the department.

(e) A local jurisdiction which has determined to utilize its own retail transactions and use taxes and any other local resources to fund the construction or improvement of a state highway project may, if the department is unable to comply with the request specified in subdivision (d), request the department to furnish the local jurisdiction with all information and assistance necessary to enable the local jurisdiction to proceed with the planning, design, right-of-way acquisition, and construction of the project. A local jurisdiction which chooses to proceed with project development work through environmental clearance pursuant to this section, is responsible for all the costs associated with the work. The department, however, shall provide the required oversight at state expense.

Upon receiving sufficient assurances that adequate local funding for the project will be made available by the local jurisdiction, the department shall move expeditiously to furnish that information and

assistance to the local jurisdiction within 90 days of the department's determination that it cannot comply with the request specified in subdivision (d). This information shall be made available only after the department has had the opportunity to determine whether it will be able to comply with the request specified in subdivision (d).

The project shall be designed, right-of-way acquired, and the environmental documents prepared in accordance with the department's practices for planning, design, right-of-way acquisition, and construction. The department shall prescribe these practices in policy and procedural memoranda within the 90-day period.

(f) The detailed application of the conditions prescribed by this section shall be set forth in an agreement between the department and the local jurisdiction.

(g) All work done on the state highway system under this section shall be done in conformance with Section 14529.13.

(i) This section shall remain in effect only until January 1, 1994, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1994, deletes or extends that date.

CHAPTER 384

An act to add Part 3 (commencing with Section 55800) to Division 2 of Title 5 of the Government Code, relating to transactions and use taxes, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 8, 1991. Filed with Secretary of State September 9, 1991.]

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

SECTION 1. Part 3 (commencing with Section 55800) is added to Division 2 of Title 5 of the Government Code, to read:

PART 3. AUTHORITIES

CHAPTER 1. COUNTIES TRANSACTION AND USE TAX

55800. (a) (1) As part of the ballot proposition to approve the imposition of a retail transactions and use tax pursuant to Chapter 2 (commencing with Section 7285) of Part 1.7 of Division 2 of the Revenue and Taxation Code, an authority established pursuant to Section 7285.5 of the Revenue and Taxation Code may seek authorization to issue bonds payable from the proceeds of the tax to finance capital outlay expenditures as may be provided for in the expenditure plan adopted pursuant to subdivision (c) of Section 7285.5 of the Revenue and Taxation Code.

(2) If an authority established pursuant to Section 7285.5 of the Revenue and Taxation Code has obtained voter approval prior to the

effective date of this chapter for the imposition of a retail transactions and use tax pursuant to Chapter 2 (commencing with Section 7285) of Part 1.7 of Division 2 of the Revenue and Taxation Code and the issuance of bonds payable from the proceeds of the tax, that authority may issue bonds, refunding bonds, and bond anticipation notes pursuant to this chapter to finance capital outlay expenditures as may be provided for in the expenditure plan adopted pursuant to subdivision (c) of Section 7285.5 of the Revenue and Taxation Code.

(3) If an authority established pursuant to Section 7285.5 of the Revenue and Taxation Code has obtained voter approval prior to the effective date of this chapter only for the imposition of a retail transactions and use tax pursuant to Chapter 2 (commencing with Section 7285) of Part 1.7 of Division 2 of the Revenue and Taxation Code, that authority may seek authorization to issue bonds pursuant to this chapter payable from the proceeds of the tax to finance capital outlay expenditures as may be provided for in the expenditure plan adopted pursuant to subdivision (c) of Section 7285.5 of the Revenue and Taxation Code only if a resolution is adopted by two-thirds vote of the governing body of the authority and approved by a majority of the voters.

(b) The maximum indebtedness which may be outstanding at any one time shall be an amount equal to the sum of the principal of, and interest on, the bonds, but not to exceed the estimated proceeds of the tax, as determined by the plan. The amount of bonds outstanding at any one time does not include the amount of bonds, refunding bonds, or bond anticipation notes for which funds necessary for the payment thereof have been set aside for that purpose in a trust or escrow account.

55802. (a) The bonds authorized by the voters pursuant to Section 55800 may be issued at any time by the authority and shall be payable from the proceeds of the tax. The bonds shall be referred to as "limited tax bonds." The bonds may be secured by a pledge of revenues from the proceeds of the tax, including income from the investment of those proceeds.

(b) The pledge of the retail transactions and use tax revenues for the limited tax bonds authorized under this chapter shall have priority over the use of any of the tax revenues for "pay-as-you-go" financing, or any other purposes except to the extent that that priority is expressly restricted in the resolution authorizing the issuance of the bonds.

55803. Limited tax bonds issued under this chapter may be used only for the following purposes:

(a) To finance the capital outlay expenditures to carry out the purposes of the retail transactions and use tax imposed by the authority.

(b) To pay costs incurred in the issuance of the limited tax bonds.

(c) To fund a reserve fund for the limited tax bonds.

55804. Limited tax bonds shall be issued pursuant to a resolution

adopted at any time, and from time to time, by a two-thirds vote of the governing board of the authority, provided voter approval authorizing the issuance of bonds by the authority has been obtained by a majority vote, except as provided in paragraph (2) of subdivision (a) of Section 55800. Each resolution shall provide for the issuance of bonds in the amounts as may be necessary, until the full amount of bonds authorized have been issued. The full amount of bonds may be divided into two or more series and different dates of payment fixed for the bonds of each series. A bond need not mature on its anniversary date.

55805. (a) A resolution providing for the issuance of bonds pursuant to this chapter shall state all of the following:

(1) The purposes for which the proposed debt is to be incurred, which may include all costs and estimated costs incidental to, or connected with, the accomplishment of those purposes, including without limitation, engineering, inspection, legal, fiscal agents, financial consultant and other fees, bond and other reserve funds, working capital, bond interest estimated to accrue during the construction period and for a period not to exceed three years thereafter, and expenses of all proceedings for the authorization, issuance, and sale of the bonds.

(2) The estimated costs of accomplishing those purposes.

(3) The amount of the principal of the indebtedness.

(4) The maximum term the bonds proposed to be issued shall run before maturity, which shall not be beyond the date of termination of the imposition of the retail transactions and use tax.

(5) The maximum rate of interest to be paid, which shall not exceed the maximum rate allowed by Section 53531, payable at intervals determined by the authority.

(6) The denomination or denominations of the bonds, which shall not be less than five thousand dollars ($5,000).

(7) The form of the bonds, including, without limitation, registered bonds and coupon bonds, to the extent permitted by federal law, and the form of any coupons to be attached thereto, the registration, conversion, and exchange privileges, if any, pertaining thereto, and the time when all, or any part, of the principal becomes due and payable.

(b) The resolution may also contain any other matters authorized by this chapter or any other law.

55806. The authority may provide for the limited tax bonds to bear a variable or fixed interest rate, for the manner and intervals in which the rate shall vary, and for the dates on which the interest shall be payable.

55807. (a) In the resolution authorizing the issuance of the bonds, the authority may also provide for the call and redemption of the bonds prior to maturity at the times and prices and upon other terms as specified.

(b) Notwithstanding the provisions of subdivision (a), no bond is subject to call or redemption prior to maturity, unless it contains a

recital to that effect or unless a statement to that effect is printed therein.

55808. The principal of, and interest on, the bonds, shall be payable in lawful money of the United States at the office of the treasurer or auditor-controller of the authority, or at other places as may be designated, or at both the office and other places at the option of the holders of the bonds.

55809. (a) The bonds, or each series thereof, shall be signed by the chairperson or vice chairperson of the governing board of the authority or the treasurer or auditor-controller of the authority, and the official seal, if any, of the authority shall be attached.

(b) The interest coupons, if any, of the bonds shall be signed by the treasurer or auditor-controller of the authority. All of the signatures and the seal may be printed, lithographed, photocopied, or mechanically reproduced. However, the bonds shall not be valid or become obligatory for any purpose until manually signed by an authenticating agent or trustee duly appointed by the authority or its authorized designee.

(c) If any officer whose signature appears on the bonds or coupons ceases to be that officer before the delivery of the bonds, the officer's signature is as effective as if the officer had remained in office.

55810. The bonds may be sold as the authority determines by resolution, and the bonds may be sold at a price above or below par, whether by negotiated or public sale.

55811. Delivery of any bonds issued pursuant to this chapter may be made at any place either inside or outside the state, and the purchase price may be received in cash or bank credits.

55812. All accrued interest and premiums received on the sale of the bonds shall be placed in the fund to be used for the payment of the principal of, and interest on, the bonds, and the remainder of the proceeds of the bonds shall be placed in the treasury of the authority or deposited with a bond trustee and applied to secure the bonds or for the purposes for which the debt was incurred. However, when the purposes have been accomplished, any money remaining shall be either (a) transferred to the fund to be used for the payment of principal of, and interest or redemption premium on, the bonds or (b) placed in a fund to be used for the purchase of the outstanding bonds in the open market at prices and in the manner, either at public or private sale or otherwise, as determined by the authority. Bonds so purchased shall be canceled immediately.

55813. (a) The authority may provide for the issuance, sale, or exchange of refunding bonds to redeem or retire any bonds issued by the authority upon the terms, at the times and in the manner which it determines.

(b) The proceeds of any bonds issued for the purpose of refunding outstanding bonds may, in the discretion of the authority, be applied to the purchase or retirement at maturity or redemption of outstanding bonds either on their earliest or any subsequent redemption date or upon the purchase or retirement at the maturity

thereof and may, pending that application, be placed in escrow to be applied to the purchase or retirement at maturity or redemption on the date as may be determined by the authority.

(c) Pending that use, the escrowed proceeds may be invested and reinvested by the authority or its trustee in obligations of, or guaranteed by, the United States, or in certificates of deposits or time deposits secured by obligations of, or guaranteed by, the United States, maturing at a time or times appropriate to ensure the prompt payment of principal, interest, and redemption premium, if any, of the outstanding bonds to be so refunded. The interest, income, and profits, if any, earned or realized on the investment may also be applied to the payment of the outstanding bonds to be so refunded. After the terms of the escrow have been fully satisfied and carried out, any balance of the proceeds and interest, income, and profits, if any, earned or realized on the investment thereof may be returned to the authority for use by it in any lawful manner.

55814. Refunding bonds may be issued in a principal amount sufficient to pay all, or any part of, the principal of the outstanding bonds, the premiums, if any, due upon call and redemption thereof prior to maturity, all expenses of the refunding, and either of the following:

(a) The interest upon the refunding bonds from the date of sale thereof to the date of payment of the bonds to be refunded out of the proceeds of the sale of the refunding bonds or to the date upon which the bonds to be refunded will be paid pursuant to call or agreement with the holder of the bonds.

(b) The interest upon the bonds to be refunded from the date of sale of the refunding bonds to the date of payment of the bonds to be refunded or to the date upon which the bonds to be refunded will be paid pursuant to call or agreement with the holder of the bonds.

55815. (a) The authority may borrow money in anticipation of the sale of bonds which have been authorized pursuant to this chapter, but which have not been sold or delivered, and may issue negotiable bond anticipation notes therefor and may renew the bond anticipation notes from time to time. However, the maximum maturity of any bond anticipation notes, including the renewals thereof, shall not exceed five years from the date of delivery of the original bond anticipation notes.

(b) The bond anticipation notes, and the interest thereon, may be paid from any money of the authority available therefor, including the revenues from the retail transactions and use tax. If not previously otherwise paid, the bond anticipation notes, or any portion thereof, or the interest thereon, shall be paid from the proceeds of the next sale of the bonds of the authority in anticipation of which the notes were issued.

(c) The bond anticipation notes shall not be issued in any amount in excess of the aggregate amount of the bonds which the authority has been authorized to issue, less the amount of any bonds of the authorized issue previously sold, and also less the amount of other

bond anticipation notes therefor issued and then outstanding. The bond anticipation notes shall be issued and sold in the same manner as the bonds.

(d) The bond anticipation notes and the resolutions authorizing them may contain any provisions, conditions, or limitations which a resolution of the authority may contain.

55816. Any limited tax bonds issued pursuant to this chapter are a legal investment for all trust funds, for the funds of insurance companies, commercial and savings banks, and trust companies, and for state school funds. Whenever any money or funds may, by any law now or hereafter enacted, be invested in bonds of cities, cities and counties, counties, school districts, or other districts within the state, that money or funds may be invested in the bonds issued pursuant to this chapter. Whenever bonds of cities, cities and counties, counties, school districts, or other districts within this state may, by any law now or hereafter enacted, be used as security for the performance of any act or the deposit of any public moneys, the bonds issued pursuant to this chapter may be so used. The provisions of this chapter are in addition to all other laws relating to legal investments and shall be controlling as the latest expression of the Legislature with respect thereto.

55817. Notwithstanding any other provision of law:

(a) The authority and its revenues are exempt from all taxes on, or measured by, income.

(b) Bonds issued by the authority are exempt from all property taxation, and the interest on the bonds is exempt from all taxes on income.

(c) All property owned by the agency is exempt from property taxes, assessments, and other public charges secured by liens.

55818. (a) Bonds issued pursuant to this chapter do not constitute a debt or liability of the state or of any other public agency, other than the authority issuing the bonds, or a pledge of the faith and credit of the state or of any other public agency, other than the issuing authority, but shall be payable solely from the funds provided therefor. All of the bonds shall contain on the face thereof a statement to the following effect:

"Neither the faith and credit nor the taxing power of the State of California or any public agency, other than the (name of the issuing authority), is pledged to the payment of the principal of or interest on this bond."

(b) The issuance of bonds pursuant to this chapter does not in any manner obligate the state or any other public agency thereof to levy, or to pledge, any form of taxation therefor or to make any appropriation for their payment.

55819. Any action or proceeding wherein the validity of the adoption of the retail transactions and use tax ordinance provided for in this chapter or the issuance of any bonds thereunder or any of the proceedings in relation thereto is contested, questioned, or denied, shall be commenced pursuant to Chapter 9 (commencing with

Section 860) of Title 10 of Part 2 of the Code of Civil Procedure within six months from the date of the election at which the ordinance is approved or, in the case of any ordinance approved prior to the effective date of this section, six months from the effective date of this section. Otherwise, the bonds and all proceedings in relation thereto, including the adoption and approval of the ordinance and the retail transactions and use tax provided for therein, shall be held to be valid and in every respect legal and incontestable.

55820. The authority has no power to impose any tax other than the transactions and use tax imposed upon approval of the voters in accordance with this chapter.

55821. If any provision of this chapter or the application thereof to any person or circumstance is held invalid, that invalidity shall not affect other provisions or applications of the chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are severable.

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

Since legislation has been enacted that permits counties to establish an authority to impose a transactions and use tax if approved at an election, there has been ambiguity about whether and how an authority may borrow for the purposes for which it was established and use the transactions and use tax to repay the borrowing. Thus, in order to establish the means and requirements for this borrowing to enable these authorities to accomplish their purpose and avoid unnecessary cost and uncertainty in the public market for their bonds, it is necessary that this act take effect immediately.

CHAPTER 385

An act to amend Section 58654 of, to add Sections 58608.1 and 58741.1 to, and to add and repeal Section 58993.1 of, the Food and Agricultural Code, relating to agriculture.

[Approved by Governor September 8, 1991. Filed with Secretary of State September 9, 1991]

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

SECTION 1. Section 58608.1 is added to the Food and Agricultural Code, to read:

58608.1. "Educational program," unless otherwise defined in this chapter, means a program established by the director pursuant to this chapter that provides for the planning and implementation of

activities designed to inform the general public of the processes of producing agricultural commodities and designed to foster cooperation and understanding between urban and rural sectors of society.

SEC. 2. Section 58654 of the Food and Agricultural Code is amended to read:

58654. The purposes of this chapter are to do the following:

(a) Enable producers of this state, with the aid of the state, to correlate more effectively the marketing of their commodities with market demands for those commodities.

(b) Establish orderly marketing of commodities.

(c) Provide for uniform grading and proper preparation of commodities for market.

(d) Provide methods and means for the maintenance of present markets, or for the development of new or larger markets, for commodities that are grown within this state or for the prevention, modification, or elimination of trade barriers that obstruct the free flow of those commodities to market.

(e) Eliminate or reduce economic waste in the marketing of commodities.

(f) Restore and maintain adequate purchasing power for the producers of this state.

(g) Inform the general public of the processes of producing agricultural commodities.

(h) Foster cooperation and understanding between urban and rural sectors of society.

SEC. 3. Section 58741.1 is added to the Food and Agricultural Code, to read:

58741.1. Subject to Section 58993.1, the director may establish an educational program, as defined in Section 58608.1, directly affecting producers of all commodities produced in this state. If established, the educational program shall be created with all the powers, rights, and duties set forth in this chapter, except that it shall not be subject to Section 58749 or 58993.

SEC. 4. Section 58993.1 is added to the Food and Agricultural Code, to read:

58993.1. (a) An educational program established pursuant to Section 58741.1 shall provide for a referendum among producers directly affected within two years of the date of implementation of the educational program to determine whether it should continue in operation. The director may provide a procedure for individual refunds of assessments paid prior to the referendum. The director shall approve continuation of the program if the director finds either of the following:

(1) If the producers that cast ballots in the referendum in favor of the program represent not less than 65 percent of the total number of producers that cast ballots in the referendum and marketed not less than 51 percent of the total quantity of the commodities which were marketed in the immediately preceding marketing season by

all of the producers that cast ballots in the referendum.

(2) If the producers that cast ballots in the referendum in favor of the program represent not less than 51 percent of the total number of producers that cast ballots in the referendum and marketed not less than 65 percent of the total quantity of the commodities which were marketed in the immediately preceding marketing season by all of the producers who cast ballots in the referendum.

A referendum for the continuation of that program shall be conducted every five years thereafter.

(b) This section shall remain in effect only until January 1, 1997, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1997, deletes or extends that date.

CHAPTER 386

An act to amend Sections 9880.1 and 9886.3 of the Business and Professions Code, and to amend Sections 44017.3, 44020, 44031.5, 44033, 44037, 44050, 44053, and 44055 of, to add Article 7 (commencing with Section 44072) to Chapter 5 of Part 5 of Division 26 of, and to add and repeal Section 44023 of, the Health and Safety Code, relating to vehicles.

[Approved by Governor September 8, 1991. Filed with Secretary of State September 10, 1991.]

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

SECTION 1. Section 9880.1 of the Business and Professions Code is amended to read:

9880.1. The following terms as used in this chapter have the meaning expressed in this section:

(a) "Automotive repair dealer" means a person who, for compensation, engages in the business of repairing or diagnosing malfunctions of motor vehicles.

(b) "Board" means the Advisory Board, Bureau of Automotive Repair.

(c) "Chief" means the Chief of the Bureau of Automotive Repair.

(d) "Bureau" means the Bureau of Automotive Repair.

(e) "Motor vehicle" means a passenger vehicle required to be registered with the Department of Motor Vehicles and all motorcycles whether or not required to be registered by the Department of Motor Vehicles.

(f) "Repair of motor vehicles" means all maintenance of and repairs to motor vehicles performed by an automotive repair dealer, but excluding those repairs made pursuant to a commercial business agreement and also excluding repairing tires, changing tires, lubricating vehicles, installing light bulbs, batteries, windshield wiper blades and other minor accessories, cleaning, adjusting, and

replacing spark plugs, replacing fan belts, oil, and air filters, and other minor services, which the director, by regulation, determines are customarily performed by gasoline service stations.

No service shall be designated as minor, for purposes of this section, if the director finds that performance of the service requires mechanical expertise, has given rise to a high incidence of fraud or deceptive practices, or involves a part of the vehicle essential to its safe operation.

(g) "Person" includes firm, partnership, association, or corporation.

(h) A "mechanic" is an employee of an automotive repair dealer or is that dealer, if the employer or dealer repairs motor vehicles and who for salary or wage performs maintenance, repair, removal, or installation of any integral component parts of an engine, driveline, chassis or body of any vehicle, but excluding repairing tires, changing tires, lubricating vehicles, installing light bulbs, batteries, windshield wiper blades, and other minor accessories; cleaning, replacing fan belts, oil and air filters; and other minor services which the director, by regulation, determines are customarily performed by a gasoline service station.

(i) "Director" means the Director of Consumer Affairs.

(j) "Commercial business agreement" means an agreement, whether in writing or oral, entered into between a business or commercial enterprise and an automobile repair dealer, prior to the repair which is requested being made, which agreement contemplates a continuing business arrangement under which the automobile repair dealer is to repair any vehicle covered by the agreement, but does not mean any warranty or extended service agreement normally given by an automobile repair facility to its customers.

SEC. 2. Section 9886.3 of the Business and Professions Code is amended to read:

9886.3. The fees prescribed by this chapter shall be set by the director in an amount estimated to provide for the administration of this chapter within the limits of the following schedule:

(a) The automotive repair dealer registration fee is not more than two hundred dollars ($200), for each place of business in this state.

(b) The annual renewal fee for an automotive repair dealer registration shall not be more than two hundred dollars ($200) for each place of business in this state, if renewed prior to its expiration date.

(c) The renewal fee for a registration that is not renewed prior to its expiration date shall be 1½ times the renewal fee required for a registration renewal prior to its expiration date, but not more than the renewal fee plus fifty dollars ($50).

SEC. 3. Section 44017.3 of the Health and Safety Code is amended to read:

44017.3. (a) Each smog check station shall have posted conspicuously in an area frequented by customers a list of price

ranges indicating the maximum amounts established by law to be spent on repairs required to cause an automobile to pass a smog check. The signs shall be required in all stations where smog check inspections are performed. In stations where licensed smog check mechanic repairs are not performed, the station shall have posted conspicuously in an area frequented by customers a statement that mechanics are not available and repairs are not performed.

(b) The sign dimensions and letter typeface and point size shall be established by regulation by the Bureau of Automotive Repair and shall be similar to other posted signs required by the bureau.

(c) The sign shall read:

"Notice

Under California law, the following amounts are the maximum you are required to spend in repairing the engine and exhaust systems to bring your automobile into compliance with emission control system standards:

Year of Auto	Maximum Amount
'55 - '71	$ 50.00
'72 - '74	$ 90.00
'75 - '79	$125.00
'80 - '89	$175.00
'90 - On	$300.00

These amounts do not include the replacement costs for replacing missing, modified, or disconnected emission control system parts.

If your repair estimate exceeds the above amounts, you may elect to pay that amount and have the repairs completed, or call the referee at the toll-free number provided by this station."

(d) The specific amounts enumerated in the sign shall be in compliance with Section 44017. The adjustments in the repair cost limitations authorized in subdivision (b) of that section shall also be reflected in the sign.

SEC. 4. Section 44020 of the Health and Safety Code is amended to read:

44020. Notwithstanding any other provision of this chapter, the department may license any owner of a fleet of 10 or more motor vehicles subject to this chapter, who so elects, to implement and conduct the tests and to perform necessary service and adjustment on the fleet's vehicles under this chapter, subject to all of the following conditions:

(a) The owner's facilities or personnel, or both, or a designated contractor of the owner, shall be licensed by the department as a fleet smog check station, and the test and repair system shall conform, in the department's determination, with all provisions of this chapter and all rules and regulations adopted by the department.

The regulations shall provide for adequate onsite inspection by the department.

(b) A license issued under this section is subject to Sections 44035 and 44050 and may be suspended or revoked by the department whenever the department determines, on the basis of random spot checks of the owner's inspection system and fleet vehicles, that the system fails to conform or that certificates of compliance have been issued by the owner in violation of regulations adopted by the department. Any person licensed to conduct tests and service and adjustments under this section is deemed to have consented to provide the department with whatever access, information, and other cooperation the department reasonably determines are necessary to facilitate the random spot checks.

(c) A fleet owner licensed to conduct tests or make repairs pursuant to this chapter shall issue certificates of compliance for motor vehicles which comply with the requirements of this chapter. The cost limitations in Section 44017 shall not apply to any motor vehicle owned by a fleet owner licensed pursuant to this section.

(d) Notwithstanding subdivision (c), certificates of compliance or noncompliance prepared solely for the disposal or sale of motor vehicles owned by a fleet owner licensed pursuant to this section shall be subject to the cost limitations in Section 44017.

(e) The department shall establish initial and renewal license fees, which shall not exceed the reasonable costs of administering this section.

SEC. 4.5. Section 44023 is added to the Health and Safety Code, to read:

44023. (a) The state board, in cooperation with the department, shall report to the Legislature on or before April 30, 1992, on technologies, including, but not limited to, remote sensing, which would improve detection of high-emitting vehicles through the vehicle inspection program.

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

SEC. 5. Section 44031.5 of the Health and Safety Code is amended to read:

44031.5. (a) No smog check mechanic may perform tests or make repairs required by this chapter, for compensation, unless qualified by the department for the class and category of vehicle being tested or repaired. To qualify, smog check mechanics shall pass a qualification test administered by the department in addition to meeting minimum experience and training criteria established by the department. Passage of the qualification test shall also be required upon each biennial renewal of the smog check mechanic's license.

(b) No person may perform the duties of a licensed inspector, including, but not limited to, the signing of certificates, unless that person is licensed and has met the requirements of subdivision (b)

of Section 44031. This subdivision applies to every licensed inspector upon the first renewal of the inspector's license after January 1, 1988, and upon each renewal thereafter.

(c) The department shall prescribe training and periodic retraining courses for licensed inspectors and for smog check mechanics.

(d) Whenever the department determines, through investigation, that a previously qualified smog check mechanic may lack the skills to reliably and accurately perform the test or repair functions within the required qualification, it may prescribe for the mechanic one or more retraining courses which have been certified by the department. The smog check mechanic may request and be granted a hearing, pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, on the department's determination. The request for a hearing shall be submitted within 30 days of the department's notification of its determination. A failure to complete the prescribed retraining course within the time designated by the department, or to request a hearing within 30 days of the department's notification of its determination, shall result in loss of qualification. Upon a later completion of the prescribed department certified retraining course, the department may reinstate the smog check mechanic's qualification.

(e) Smog check mechanics shall have the option to do hands-on work in lieu of written work in order to successfully complete the department certified training and retraining courses. The institution administering the department certified training or retraining courses shall issue a certificate of completion to each person successfully completing the certified courses. The certificate shall be valid for two years.

(f) There is hereby created a training course advisory board to assist and advise the department in recommending the form and content of training courses. The advisory board shall consist of five members appointed by the director, of whom two shall represent smog check station owners or managers, two shall represent smog check mechanics, and one shall be a public member. The director may establish, by regulation, the term of office of the members. The members of the advisory board shall receive no compensation for their services, but shall be reimbursed for their actual and necessary expenses in performing their duties under this subdivision.

SEC. 6. Section 44033 of the Health and Safety Code is amended to read:

44033. (a) Any facility meeting the requirements established by the department pursuant to this chapter may be licensed as a smog check station. A licensed smog check station shall display an identifying sign prescribed by the department in a manner conspicuous to the public.

(b) No licensed smog check station shall require, as a condition of performing the test, that any needed repairs or adjustment be done

by the person, or at the facility of the person, performing the test.

(c) If a motor vehicle, including a commercial vehicle, is tested at a facility licensed to perform tests and repairs pursuant to this chapter, the facility shall provide the customer with a written estimate pursuant to Section 9884.9 of the Business and Professions Code. The written estimate shall contain a notice to the customer stating that the customer may choose another smog check station to perform needed repairs, installations, adjustments, or subsequent tests.

(d) Charges for testing or repair, or both, shall be separately stated.

(e) The department shall require the posting of station licenses, inspector licenses, and qualified mechanics certificates prominently in each place of business so as to be readily visible to the public.

SEC. 7. Section 44037 of the Health and Safety Code is amended to read:

44037. The department shall compile and maintain records, using the sampling methodology necessary to ensure their scientific validity and reliability, of tests and repairs performed by qualified smog check mechanics at licensed smog check stations pursuant to this chapter on all of the following information:

(a) The motor vehicle identification information and the test data collected at the station.

(b) The number of maintenance and repair operations performed on motor vehicles which fail to pass a test conducted pursuant to this chapter.

(c) The correlation between maintenance and repairs recommended by the department pursuant to Section 44016 and maintenance and repairs performed.

(d) The charges assessed for the service and repairs.

(e) Any other information deemed essential by the department.

A written summary of all the above information shall be available annually for the mechanics and smog check stations in each district and to the public upon request.

SEC. 8. Section 44050 of the Health and Safety Code is amended to read:

44050. (a) If, upon investigation, the department has probable cause to believe that a licensed smog check station, a licensed inspector, or a fleet owner licensed under Section 44020 has violated this chapter, or any regulation adopted pursuant to this chapter, the department may issue a citation to the licensee or fleet owner. The citation shall specify the nature of the violation and may specify a civil penalty assessed by the department pursuant to Section 44051 or 44051.5.

(b) If, upon investigation, the department has probable cause to believe that a qualified smog check mechanic has violated Section 44012, 44015, 44016, or 44032, or any regulation adopted pursuant to this chapter, the department may issue a citation to the mechanic. The citation shall specify the nature of the violation and, in addition,

whichever of the following applies:

(1) For a first citation, the smog check mechanic shall successfully complete one or more retraining courses prescribed by the department pursuant to subdivision (d) of Section 44031.5.

(2) For a second citation, the smog check mechanic shall successfully complete one or more retraining courses prescribed by the department pursuant to subdivision (d) of Section 44031.5 and the mechanic shall perform no inspection or repair pursuant to this chapter until that completion.

(3) For a third citation, the smog check mechanic shall successfully complete an advanced retraining course prescribed by the department and shall perform no inspection or repair pursuant to this chapter until that completion.

(4) For a fourth citation, the smog check mechanic's qualification may be permanently revoked.

(c) The citation shall be served pursuant to subdivision (c) of Section 11505 of the Government Code.

SEC. 9. Section 44053 of the Health and Safety Code is amended to read:

44053. (a) Any person issued a citation pursuant to Section 44050 may request a hearing in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code. A request for a hearing shall be submitted in writing within 30 days of service of the citation, and shall be delivered to the office of the department in Sacramento. Hearings and related procedures under this section shall be conducted in the same manner as proceedings for adjudication of an accusation under that Chapter 5, except as otherwise specified in this article.

(b) If, within 30 days from service of the citation, the licensee or fleet owner licensed pursuant to Section 44020 or qualified mechanic fails to request a hearing, the citation shall be deemed the final order of the department.

(c) As it applies to this article, the service required in Section 11505 of the Government Code includes service personally, by registered mail, or by courier with receipt of delivery.

SEC. 10. Section 44055 of the Health and Safety Code is amended to read:

44055. (a) Any failure by an applicant for a license or for the renewal of a license, or by any partner, officer, or director thereof, to comply with the final order of the department for the payment of civil penalties, or to pay the amount specified in a settlement executed by the applicant and the Director of the Department of Consumer Affairs, shall result in denial of a license or of the renewal of the license. The department shall not allow the issuance of any certificate of compliance or noncompliance by a licensee until all civil penalties which have become final, or amounts agreed to in a settlement, have been paid by the licensee.

(b) The department may deny an application for the renewal of a test station or repair station license if the applicant, or any partner,

officer, or director thereof, has failed to pay any civil penalty in accordance with this article.

SEC. 11. Article 7 (commencing with Section 44072) is added to Chapter 5 of Part 5 of Division 26 of the Health and Safety Code, to read:

Article 7. Denial, Suspension, and Revocation

44072. Any license issued under this chapter and the regulations adopted pursuant to it may be suspended or revoked by the director. The director may refuse to issue a license to any applicant for the reasons set forth in Section 44072.1. The proceedings under this article shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the director shall have all the powers granted therein.

44072.1. The director may deny a license if the applicant, or any partner, officer, or director thereof, does any of the following:

(a) Fails to meet the qualifications established by the bureau pursuant to Articles 2 (commencing with Section 44010) and 3 (commencing with Section 44030) and the regulations adopted for the issuance of the license applied for.

(b) Was previously the holder of a license issued under this chapter, which license has been revoked and never reissued or which license was suspended and the terms of the suspension have not been fulfilled.

(c) Has committed any act which, if committed by any licensee, would be grounds for the suspension or revocation of a license issued pursuant to this chapter.

(d) Has committed any act involving dishonesty, fraud, or deceit whereby another is injured or whereby the applicant has benefited.

(e) Has acted in the capacity of a licensed person or firm under this chapter without having a license therefor.

(f) Has entered a plea of guilty or nolo contendere to, or been found guilty of, or been convicted of a crime substantially related to the qualifications, functions, and duties of the licenseholder in question, and the time for appeal has elapsed or the judgment of conviction has been affirmed on appeal, irrespective of an order granting probation following the conviction, suspending the imposition of sentence, or of a subsequent order under Section 1203.4 of the Penal Code allowing the person to withdraw a plea of guilty and to enter a plea of not guilty, or setting aside the plea or verdict of guilty, or dismissing the accusation or information.

44072.2. The director may suspend, revoke, or take other disciplinary action against a license as provided in this article if the licensee, or any partner, officer, or director thereof, does any of the following:

(a) Violates any section of this chapter and the regulations adopted pursuant to it, which related to the licensed activities.

(b) Is convicted of any crime substantially related to the qualifications, functions, and duties of the licenseholder in question.

(c) Violates any of the regulations adopted by the director pursuant to this chapter.

(d) Commits any act involving dishonesty, fraud, or deceit whereby another is injured.

(e) Has misrepresented a material fact in obtaining a license.

(f) Aids or abets unlicensed persons to evade the provisions of this chapter.

(g) Fails to make and keep records showing his or her transactions as a licensee, or fails to have those records available for inspection by the director or his or her duly authorized representative for a period of not less than three years after completion of any transaction to which the records refer, or refuses to comply with a written request of the director to make the records available for inspection.

(h) Violates or attempts to violate the provisions of this chapter relating to the particular activity for which he or she is licensed.

44072.3. A plea or verdict of guilty or a conviction following a plea of nolo contendere is a conviction within the meaning of this article. The director may order the license suspended or revoked or may decline to issue a license, when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence irrespective of a subsequent order under Section 1203.4 of the Penal Code allowing the person to withdraw a plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or indictment.

44072.4. The director may take disciplinary action against any licensee after a hearing as provided in this article by any of the following:

(a) Imposing probation upon terms and conditions to be set forth by the director.

(b) Suspending the license.

(c) Revoking the license.

44072.5. Upon the effective date of any order of suspension or revocation of any license governed by this chapter, the licensee shall surrender the license to the director.

44072.6. The expiration or suspension of a license by operation of law or by order or decision of the director or a court of law, or the voluntary surrender of a license by a licensee shall not deprive the director of jurisdiction to proceed with any investigation of, or action or disciplinary proceedings against, the licensee, or to render a decision suspending or revoking the license.

44072.7. All accusations against licensees shall be filed within three years after the act or omission alleged as the ground for disciplinary action, except that with respect to an accusation alleging a violation of subdivision (f) of Section 44072.2, the accusation may be filed within two years after the discovery by the bureau of the alleged facts constituting the fraud or misrepresentation prohibited

by that section.

44072.8. When a license has been revoked or suspended following a hearing under this article, any additional license issued under this chapter in the name of the licensee may be likewise revoked or suspended by the director.

44072.9. After suspension of the license upon any of the grounds set forth in this article, the director may reinstate the license upon proof of compliance by the applicant with all provisions of the decision as to reinstatement. After revocation of a license upon any of the grounds set forth in this article, the license shall not be reinstated or reissued within a period of one year after the effective date of revocation.

SEC. 12. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 387

An act to amend Section 9880.1 of the Business and Professions Code, relating to automotive repair.

[Approved by Governor September 8, 1991 Filed with Secretary of State September 10, 1991.]

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

SECTION 1. Section 9880.1 of the Business and Professions Code is amended to read:

9880.1. The following terms as used in this chapter have the meaning expressed in this section.

(a) "Automotive repair dealer" means a person who, for compensation, engages in the business of repairing or diagnosing malfunctions of motor vehicles.

(b) "Board" means the Advisory Board, Bureau of Automotive Repair.

(c) "Chief" means the Chief of the Bureau of Automotive Repair.

(d) "Bureau" means the Bureau of Automotive Repair.

(e) "Motor vehicle" means a passenger vehicle or a commercial vehicle with a gross vehicle weight of less than 10,000 pounds, required to be registered with the Department of Motor Vehicles and all motorcycles whether or not required to be registered by the

Department of Motor Vehicles.

(f) "Repair of motor vehicles" means all maintenance of and repairs to motor vehicles performed by an automotive repair dealer including automotive body repair work, but excluding those repairs made pursuant to a commercial business agreement and also excluding repairing tires, changing tires, lubricating vehicles, installing light bulbs, batteries, windshield wiper blades and other minor accessories, cleaning, adjusting, and replacing spark plugs, replacing fan belts, oil, and air filters, and other minor services, which the director, by regulation, determines are customarily performed by gasoline service stations.

No service shall be designated as minor, for purposes of this section, if the director finds that performance of the service requires mechanical expertise, has given rise to a high incidence of fraud or deceptive practices, or involves a part of the vehicle essential to its safe operation.

(g) "Person" includes firm, partnership, association, or corporation.

(h) A "mechanic" is an employee of an automotive repair dealer or is such dealer, if the employer or dealer repairs motor vehicles and who for salary or wage performs maintenance, repair, removal, or installation of any integral component parts of an engine, driveline, chassis or body of any vehicle, but excluding repairing tires, changing tires, lubricating vehicles, installing light bulbs, batteries, windshield wiper blades, and other minor accessories; cleaning, replacing fan belts, oil and air filters; and other minor services which the director, by regulation, determines are customarily performed by a gasoline service station.

(i) "Director" means the Director of Consumer Affairs.

(j) "Commercial business agreement" means an agreement, whether in writing or oral, entered into between a business or commercial enterprise and an automobile repair dealer, prior to the repair which is requested being made, which agreement contemplates a continuing business arrangement under which the automobile repair dealer is to repair any vehicle covered by the agreement, but does not mean any warranty or extended service agreement normally given by an automobile repair facility to its customers.

SEC. 1.5. Section 9880.1 of the Business and Professions Code is amended to read:

9880.1. The following terms as used in this chapter have the meaning expressed in this section.

(a) "Automotive repair dealer" means a person who, for compensation, engages in the business of repairing or diagnosing malfunctions of motor vehicles.

(b) "Board" means the Advisory Board, Bureau of Automotive Repair.

(c) "Chief" means the Chief of the Bureau of Automotive Repair.

(d) "Bureau" means the Bureau of Automotive Repair.

(e) "Motor vehicle" means a passenger vehicle required to be registered with the Department of Motor Vehicles and all motorcycles whether or not required to be registered by the Department of Motor Vehicles.

(f) "Repair of motor vehicles" means all maintenance of and repairs to motor vehicles performed by an automotive repair dealer including automotive body repair work, but excluding those repairs made pursuant to a commercial business agreement and also excluding repairing tires, changing tires, lubricating vehicles, installing light bulbs, batteries, windshield wiper blades and other minor accessories, cleaning, adjusting, and replacing spark plugs, replacing fan belts, oil, and air filters, and other minor services, which the director, by regulation, determines are customarily performed by gasoline service stations.

No service shall be designated as minor, for purposes of this section, if the director finds that performance of the service requires mechanical expertise, has given rise to a high incidence of fraud or deceptive practices, or involves a part of the vehicle essential to its safe operation.

(g) "Person" includes firm, partnership, association, or corporation.

(h) A "mechanic" is an employee of an automotive repair dealer or is that dealer, if the employer or dealer repairs motor vehicles and who for salary or wage performs maintenance, repair, removal, or installation of any integral component parts of an engine, driveline, chassis or body of any vehicle, but excluding repairing tires, changing tires, lubricating vehicles, installing light bulbs, batteries, windshield wiper blades, and other minor accessories; cleaning, replacing fan belts, oil and air filters; and other minor services which the director, by regulation, determines are customarily performed by a gasoline service station.

(i) "Director" means the Director of Consumer Affairs.

(j) "Commercial business agreement" means an agreement, whether in writing or oral, entered into between a business or commercial enterprise and an automobile repair dealer, prior to the repair which is requested being made, which agreement contemplates a continuing business arrangement under which the automobile repair dealer is to repair any vehicle covered by the agreement, but does not mean any warranty or extended service agreement normally given by an automobile repair facility to its customers.

SEC. 2. Section 1.5 of this bill incorporates amendments to Section 9880.1 of the Business and Professions Code proposed by both this bill and SB 290. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1992, (2) each bill amends Section 9880.1 of the Business and Professions Code, and (3) this bill is enacted after SB 290, in which case Section 1 of this bill shall not become operative.

CHAPTER 388

An act to amend Section 68565 of the Government Code, relating to courts.

[Approved by Governor September 11, 1991. Filed with Secretary of State September 11, 1991.]

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

SECTION 1. Section 68565 of the Government Code is amended to read:

68565. Subject to Section 68562, all persons who interpret, in or for use in a trial court proceeding, in any of the following languages shall be certified to the trial courts by the State Personnel Board as qualified court interpreters: Spanish, Portuguese, Arabic, Chinese, Vietnamese, Japanese, Korean, Tagalog and any other language designated by the State Personnel Board. The examination procedure to certify the list of qualified interpreters in all languages shall be the same as that previously established by the State Personnel Board for Spanish Language Court Interpreters. Interpreters who have passed the federal court interpreter certification examination and who have been certified under Title 28 of the United States Code shall be deemed qualified court interpreters without further examination by the State Personnel Board.

CHAPTER 389

An act to amend Section 8880.26 of the Government Code, relating to the State Lottery, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 11, 1991 Filed with Secretary of State September 11, 1991.]

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

SECTION 1. Section 8880.26 of the Government Code is amended to read:

8880.26. (a) The provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 are not applicable to any rule or regulation promulgated by the commission.

(b) Section 2889 of the Public Utilities Code shall not be applicable to any live, recorded, or recorded-interactive audio text access telephone service under contract to the commission, as of the effective date of the act adding this subdivision, that provides the public with lottery game draw results.

SEC. 2. The Legislature finds and declares that this act furthers the purpose of the California State Lottery Act of 1984.

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

In order to prevent the loss of vitally needed revenue for the support of public education, it is necessary that this act take effect immediately.

CHAPTER 390

An act to amend Sections 25100.1 and 25117 of the Corporations Code, relating to corporations.

[Approved by Governor September 11, 1991 Filed with Secretary of State September 11, 1991.]

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

SECTION 1. Section 25100.1 of the Corporations Code is amended to read:

25100.1. Before the interdealer quotation system of the National Association of Securities Dealers, Inc. is certified pursuant to subdivision (o) of Section 25100, the commissioner shall determine and conclude that the National Association of Securities Dealers, Inc. has adopted and obtained Securities and Exchange Commission approval of corporate governance standards, including voting rights, which are substantially similar to the corporate governance standards, including voting rights, in effect on the date of application by the association for either the American Stock Exchange or the New York Stock Exchange or, in the case of voting rights, Rule 19c-4 of the Securities and Exchange Commission as proposed on June 22, 1987.

The certification of the interdealer quotation system of the National Association of Securities Dealers, Inc., pursuant to subdivision (o) of Section 25100, ordered by the commissioner on September 22, 1989, shall remain in effect only until January 1, 1994, subject to applicable decertification proceedings.

SEC. 2. Section 25117 of the Corporations Code is amended to read:

25117. (a) An evidence of indebtedness, and the purchasers thereof, shall be exempt from the usury provisions of Section 1 of Article XV of the California Constitution if (1) the evidence of indebtedness is rated or provisionally rated by Standard & Poor's Corporation as AAA, AA, A, BBB, or investment grade commercial paper, or by Moody's Investors Service, Inc. as Aaa, Aa, A, Baa, or investment grade commercial paper, including any such ratings with

"+" or "–" designation or other variations that occur within these ratings, or has a rating or a provisional rating by another nationally recognized rating agency or system, which rating and agency or system have been certified by rule or order of the commissioner, or (2) the issuer thereof either (A) has any security listed or approved for listing upon notice of issuance on a national securities exchange or designated or approved for designation upon notice of issuance as a national market system security on an interdealer quotation system by the National Association of Securities Dealers, if the exchange or interdealer quotation system has been certified by the commissioner, pursuant to subdivision (o) of Section 25100, or (B) meets each of the following requirements:

(i) The issuer is a corporation which is subject to Section 13 of the Securities Exchange Act of 1934.

(ii) The issuer had total shareholders' equity of at least one million dollars ($1,000,000) at the end of its most recent fiscal year, and had consolidated net income, after all charges, including taxes and extraordinary losses, and excluding extraordinary gains, of at least five hundred thousand dollars ($500,000) for three of its last four fiscal years, including its most recent fiscal year. The determination of total shareholders' equity and net income shall be determined in conformity with generally accepted accounting principles applicable to that fiscal year or years, on a consolidated basis, or (3) the evidence of indebtedness is issued by any corporation all of the outstanding shares of which are owned by an issuer which meets the requirements of subparagraph (A) or (B) of paragraph (2).

(b) This section creates and authorizes a class of persons pursuant to Section 1 of Article XV of the California Constitution.

CHAPTER 391

An act to amend Sections 86103 and 86109 of the Government Code, relating to the Political Reform Act of 1974.

[Approved by Governor September 11, 1991. Filed with Secretary of State September 11, 1991]

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

SECTION 1. Section 86103 of the Government Code is amended to read:

86103. A lobbyist certification shall include:

(a) A recent black and white photograph of the lobbyist, the size of which shall be prescribed by the Secretary of State.

(b) The lobbyist's full name, business address, and telephone number.

(c) A statement that the lobbyist has read and understands the prohibitions contained in Sections 86203 and 86205.

(d) (1) Beginning with the 1991–92 Regular Session of the Legislature, a statement that the lobbyist has completed, within the previous 24 months, the course described in subdivision (b) of Section 8956. For the 1991–92 Regular Session, however, all renewal certifications shall be treated as new lobbyist certifications under paragraph (2) for the purposes of this subdivision.

(2) If, in the case of a new lobbyist certification, the lobbyist has not completed the course within the previous 24 months, the lobbyist certification shall include a statement that the lobbyist will complete a scheduled course within a reasonable period of time, and the lobbyist certification shall be accepted on a conditional basis. Within a reasonable time following the lobbyist's completion of the ethics course, the lobbyist shall file a new lobbyist certification with the Secretary of State which shall replace the conditional lobbyist certification previously filed.

(e) Any other information required by the commission consistent with the purposes and provisions of this chapter.

SEC. 2. Section 86109 of the Government Code is amended to read:

86109. Within 140 days after the commencement of each regular session of the Legislature, the Secretary of State shall publish a directory of registered individual lobbyists, lobbying firms, and lobbyist employers. The Secretary of State shall publish, from time to time, such supplements to the directory as may be necessary.

SEC. 3. The Legislature finds and declares that the provisions of this act further the purposes of the Political Reform Act of 1974 within the meaning of subdivision (a) of Section 81012 of the Government Code.

CHAPTER 392

An act to amend Section 34501.3 of the Vehicle Code, relating to vehicles.

[Approved by Governor September 11, 1991 Filed with Secretary of State September 11, 1991.]

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

SECTION 1. Section 34501.3 of the Vehicle Code is amended to read:

34501.3. (a) No motor carrier shall schedule a run or permit or require the operation of any motor vehicle subject to this division between points within a period of time which would do either of the following:

(1) Necessitate the vehicle being operated at speeds greater than those prescribed by this code.

(2) Require the driver of the vehicle to exceed the applicable

maximum hours of service.

(b) A logbook of a driver, which reflects a trip or trips between points within a period of time which would have necessitated excessive speed to complete, shall give rise to a rebuttable presumption that the driver exceeded the lawful speed limit.

(c) For a violation of paragraph (2) of subdivision (a), a first offense is punishable by a fine of not more than one thousand dollars ($1,000), a second offense by a fine of not more than two thousand five hundred dollars ($2,500), and a third or subsequent offense by a fine of not more than five thousand dollars ($5,000).

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 393

An act to amend Sections 705, 1006.3, 1103, 1631, 2520, 3519, 3706, 6312, 10015, 10211, 14005, 14221, 17121, 22934, 25002, 25500, 27032, and 27036 of, to repeal Section 1512 of, and to repeal and add Article 10 (commencing with Section 6365) of Chapter 4 of Division 6 of, the Elections Code, and to amend Sections 8211 and 57146 of, and to add and repeal Section 36512.5 of, the Government Code, relating to elections, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 11, 1991 Filed with Secretary of State September 12, 1991]

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

SECTION 1. Section 705 of the Elections Code is amended to read:

705. On completion of the canvass of the returns for each election, the elections official shall compare the absent voters list with the roster of voters in each precinct to determine if any voter cast more than one ballot at that election.

SEC. 2. Section 1006.3 of the Elections Code is amended to read:

1006.3. (a) Any individual, organization, or group that distributes applications for absent voter ballots and receives completed application forms shall return the forms to the appropriate elections official within 36 hours of receiving the

completed forms, or before the deadline for application, whichever is sooner. The name of any organization that authorizes the distribution of the applications shall be included on the application.

(b) Any application for an absent voter's ballot that is sent by an individual, group, or organization to a voter shall be nonforwardable. Any absent voter's ballot that is returned to an elections official as undeliverable shall not be forwarded by the elections official.

SEC. 3. Section 1103 of the Elections Code is amended to read:

1103. The envelope into which a new resident is to place the ballot shall bear upon its face the name and official title of the county elections official and upon the other side a printed affidavit in substantially the following form:

State of California }
County of _____ } ss.

I, _____, declare that I am a citizen of the United States, that on the day of the next election for federal offices shall be at least 18 years of age, a resident of this state prior to the election, and am a resident of the City or Town of _____, County of _____, State of California; I have not voted, nor shall I cast a vote on a ballot from the state from which I have removed.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

_____
(Date)

_____
(Signature)

_____
(Residence address)

SEC. 4. Section 1512 of the Elections Code is repealed.

SEC. 4.5. Section 1631 of the Elections Code is amended to read:

1631. The composition of the precinct board shall be determined by the elections official based on election precinct size. The precinct board shall consist of a minimum of one inspector and two clerks. Additional clerk positions may be allocated in proportion to the number of registered voters within the precinct.

SEC. 5. Section 2520 of the Elections Code is amended to read:

2520. Except as provided in Sections 2604 and 23509.5, no election shall be held on any day other than a Tuesday, nor shall any election be held on the day before, the day of, or the day after a state holiday.

SEC. 6. Section 3519 of the Elections Code is amended to read:

3519. (a) Each section shall have attached thereto the declaration of the person soliciting the signatures setting forth the information required by Section 44 and stating that the circulator is a registered voter of the state.

(b) The circulator shall certify to the content of the declaration as to its truth and correctness, under penalty of perjury under the laws

of the State of California, with the signature of his or her name at length, including given name, middle name or initial. The circulator shall state the date and the place of execution on the declaration immediately preceding his or her signature.

No other declaration thereto shall be required.

Petitions so verified shall be prima facie evidence that the signatures thereon are genuine and that the persons signing are qualified voters. Unless and until it be otherwise proven upon official investigation, it shall be presumed that the petition presented contains the signatures of the requisite number of qualified voters.

SEC. 7. Section 3706 of the Elections Code is amended to read:

3706. The petition shall be filed by the proponents, or by any person or persons authorized, in writing, by the proponents. All sections of the petition shall be filed at one time. Any sections of the petition not so filed shall be void for all purposes. Once filed, no petition section shall be amended except by order of a court of competent jurisdiction.

When the petition is filed, the county clerk shall determine the total number of signatures affixed to the petition. If, from this examination, the clerk determines that the number of signatures, prima facie, equals or is in excess of the minimum number of signatures required, the county clerk shall examine the petition in accordance with Section 3707 or 3708. If, from this examination, the clerk determines that the number of signatures, prima facie, does not equal or exceed the minimum number of signatures required, no further action shall be taken.

SEC. 8. Section 6312 of the Elections Code is amended to read:

6312. When the Secretary of State decides to place the name of a candidate on the ballot pursuant to Section 6311, he or she shall notify the candidate that the candidate's name will appear on the ballot of this state in the presidential primary election.

The secretary shall also notify the candidate that the candidate may withdraw his or her name from the list of recognized candidates by filing with the Secretary of State an affidavit pursuant to Section 6313 no later than the 64th day before the presidential primary election.

SEC. 9. Article 10 (commencing with Section 6365) of Chapter 4 of Division 6 of the Elections Code is repealed.

SEC. 10. Article 10 (commencing with Section 6365) is added to Chapter 4 of Division 6 of the Elections Code, to read:

Article 10. Selection of Delegates and Alternates

6365. Notwithstanding any other provision of this chapter, this article governs the selection of district level delegates and alternates, unpledged delegates, pledged party leaders and elected official delegates, and at-large delegates and alternates.

6365.5. (a) District level delegate positions shall be allocated to presidential preferences through a primary proportional

representation system.

(b) The 227 district-level delegates and 38 alternates shall be elected by preprimary caucuses to slate delegates followed by a presidential preference primary.

(1) The preprimary caucuses shall be conducted on Sunday, April 26, 1992, at 3 p.m.

(2) The presidential preference primary shall be conducted on Tuesday, June 2, 1992.

(c) The 227 delegates and 38 alternates shall be apportioned to districts as follows:

CD #1 - #_____ delegates, #_____ alternates

CD #2 - #_____ delegates, #_____ alternates

CD #3 - #_____ delegates, #_____ alternates

CD #4 - #_____ delegates, #_____ alternates

This apportionment shall be based on a formula giving equal weight to the average vote for the Democratic candidates in the 1984 and 1988 presidential elections and to Democratic Party registration.

Inasmuch as California anticipates the addition of seven new congressional districts, this apportionment shall be recomputed upon the establishment of the new districts. In the event the Legislature fails to enact new districts, the districts existing on the date of adoption of this plan shall be used.

(d) An individual may qualify as a candidate for district-level delegate or alternate to the 1992 Democratic National Convention by filing a statement of candidacy and pledge of support with the state chair at the party office at 2424 K Street, Sacramento, California 95816. Statements can be requested from the state party beginning Monday, February 3, 1992. Candidacy statements can be returned beginning March 2, 1992, and must be postmarked no later than 5 p.m., Thursday, April 9, 1992.

(1) All delegate candidates shall be identified as to presidential preference, uncommitted or unpledged status at all levels which determine presidential preference.

(2) Candidates for delegate or alternate positions shall file a statement of candidacy designating their presidential or uncommitted preference and a signed pledge of support for the presidential candidate (including uncommitted status) with the state party by 5 p.m., April 9, 1992.

(e) The California primary election is a "binding" primary. Accordingly, delegate and alternate positions shall be allocated so as to fairly reflect the expressed presidential or uncommitted status of the primary voters in each district. Therefore, the national convention delegates elected at the district level shall be allocated in proportion to the percentage of the primary vote won in that

district by each preference, except that preferences falling below a 15-percent threshold shall not be awarded any delegates or alternates.

(f) If no presidential preference reaches a 15-percent threshold, the threshold shall be the percentage of the vote received at each level of the delegate selection process by the front-runner minus 10 percent.

(g) Presidential candidates shall certify their authorized representatives to the state party chair no later than 5 p.m., March 9, 1992. The state party chair shall convey to the presidential candidate, or that candidate's authorized representative or representatives, not later than Tuesday, April 14, 1992, at 5 p.m., a list of all persons who have filed for delegate or alternate pledged to that presidential candidate. Each presidential candidate, or that candidate's authorized representative or representatives, shall file with the state party chair by Tuesday, April 21, 1992, at 5 p.m., a list of all the candidates he or she has approved, provided that approval is given to at least three times the number of candidates for delegate and three times the number of candidates for alternates to be selected. Failure to respond shall be deemed approval of all delegate and alternate candidates submitted to the presidential candidate unless the presidential candidate, or the candidate's authorized representative or representatives, signifies otherwise in writing to the state party chair no later than Tuesday, April 21, 1992, at 5 p.m.

(h) On Sunday, April 26, 1992, candidate and uncommitted caucuses shall be held to elect a slate of potential delegates equal to at least the number of delegates plus alternates allocated to the congressional district. The California delegation shall be equally divided between delegate men and delegate women, and alternate men and alternate women. These goals apply to the California delegation as a whole. Delegates and alternates shall be considered separate groups for purposes of achieving equal division.

Provisions for achieving equal division at the district level shall be as follows: Each candidate and uncommitted caucus shall elect a slate of potential delegates equal to at least the number of delegates plus alternates allocated to that congressional district. Potential delegates shall be ranked on the basis of votes received at the caucus, alternating by sex, with the sex of the top ranked potential delegate determined by the top vote getter. After the delegates are selected, the alternates shall then be selected, using the next highest vote getters in the process described above. Following the primary, delegate and alternate positions allocated to a presidential candidate or uncommitted delegation shall be filled from the list of ranked potential delegates in the order in which they are ranked.

(i) The State Democratic Chair shall certify in writing to the Secretary of the Democratic National Committee (DNC) the election of the state's district level delegates and alternates to the Democratic National Convention within three days after their election.

6366. (a) The following individuals shall constitute the unpledged delegate positions:

(1) Members of the DNC who legally reside in the state.

(2) The Governor if he or she is a Democrat.

(3) All former Democratic Presidents, Democratic Vice Presidents, Democratic Majority Leaders of the United States Senate, and Democratic Speakers of the United States House of Representatives who legally reside in the state.

(4) The delegates chosen from California by the Democratic Caucus of the United States House of Representatives and the Democratic Conference of the United States Senate.

(5) Five add-on delegates.

(b) The procedures to be used in selecting the five add-on unpledged delegates shall be as follows:

(1) The add-on delegates shall be nominated by the state party chair and elected at the meeting of district level delegates on Saturday, June 13, 1992. These delegates shall be selected prior to the selection of the pledged party and elected official delegates.

(2) The equal division and affirmative action provisions of Rule 9A of the Delegate Selection Rules for the 1992 Democratic National Convention apply to the selection of these add-on unpledged delegates.

(3) The list from which the selecting body chooses the add-on unpledged delegates shall, at a minimum, contain three names for every unpledged add-on position to be filled.

(c) The process for certification of the unpledged delegates is as follows:

(1) Members of the DNC, the Governor if he or she is a Democrat, and distinguished former elected leaders.

(A) Not later than March 1, 1992, the Secretary of the DNC shall officially confirm to the state party chair the following unpledged delegates who legally reside in California:

(i) The individuals recognized as members of the DNC.

(ii) The Governor if he or she is a Democrat.

(iii) All former Democratic Presidents, Democratic Vice Presidents, Democratic Majority Leaders of the United States Senate, and Democratic Speakers of the United States House of Representatives.

(B) This official confirmation by the secretary shall constitute verification of the unpledged delegates from the categories indicated above. In cases where California DNC membership changes following the secretary's official confirmation, but prior to the commencement of the 1992 Democratic National Convention, acknowledgement by the Secretary of the DNC of member certification shall constitute verification of the corresponding change of unpledged delegates.

(2) Members of Congress.

(A) The delegates chosen by the Democratic Caucus of the United States House of Representatives and the Democratic

Conference of the United States Senate shall become part of the California unpledged delegation. The total number selected shall be added to the total number of unpledged delegates from this state.

(B) The Secretary of the DNC shall officially notify the State Democratic Chair of any name or names of delegates from California that are selected by the Democratic Caucus of the United States House of Representatives and the Democratic Conference of the United States Senate.

(3) Add-on unpledged delegates, selected pursuant to the Call for the 1992 Democratic National Convention, shall be certified in writing to the Secretary of the DNC within three days after their selection.

6367. (a) California is allotted 45 pledged party leader and elected official delegates.

(b) Individuals shall be eligible for the pledged party leader and elected official positions according to the following priority: big city mayors and statewide elected officials (to be given equal consideration), state legislative leaders, state legislators, Members of Congress not previously selected, and other state, county, and local elected officials and party leaders.

(c) These delegates shall be selected by a committee consisting of all the district-level delegates.

(d) Selection of these delegates shall occur on Saturday, June 13, 1992, at a site and time to be determined by the state party chair. The selection of these delegates shall be after the election of district delegates and alternates and the unpledged add-on delegates and prior to the selection of at-large delegates and alternates.

(e) An individual may qualify as a candidate for a position as a pledged party leader and elected official delegate by filing a statement of candidacy and pledge of support with the state party chair that includes all the provisions included in the statement of candidacy and pledge of support required of district level candidates. An individual may or may not previously have filed a statement of candidacy and still be eligible to file under this category. Statements shall be available at the state party beginning March 23, 1992. Statements shall be accepted beginning April 20, 1992, and ending June 4, 1992, at 5 p.m.

(f) These pledged party leader and elected official slots shall be allocated among presidential preferences on the same basis as the at-large delegates.

(g) Delegate candidates shall be identified as to presidential or uncommitted status at the pledged party and elected official level. If persons eligible for pledged party and elected official delegate positions have not made known their presidential preference as candidates for district level or at-large delegate positions, their preference shall be ascertained through the aforementioned required qualification statement.

(h) The state party chair shall convey to the presidential candidate, or that candidate's authorized representative or

representatives, not later than June 5, 1992, a list of all persons who have filed for a party and elected official delegate pledged to that presidential candidate. Each presidential candidate, or that candidate's authorized representative or representatives, shall then file with the state party chair, by June 10, 1992, a list of all the candidates he or she has approved, provided that approval is given to at least three times the number of candidates for delegate to be selected. Failure to respond shall be deemed approval of all delegate candidates submitted to the presidential candidate unless the presidential candidate, or the candidate's authorized representative or representatives, signifies otherwise in writing to the state party chair no later than 5 p.m. on June 10, 1992.

(i) Alternates are not selected at the pledged party leader and elected official level. These alternates are combined with the at-large alternates and selected as one unit.

(j) The state party chair shall certify in writing to the Secretary of the DNC the election of the state's pledged party leader and elected official delegates and alternates to the Democratic National Convention within three days after their election.

6368. (a) The State of California is allotted 76 at-large delegates and 21 at-large alternates.

(b) These delegates and alternates shall be selected by a committee consisting of all the district-level delegates on Saturday, June 13, 1992. The selection shall occur after all unpledged delegates and pledged party leader and elected official delegates have been selected.

(c) At-large delegate and alternate positions shall be allocated among presidential preferences according to the statewide primary vote. Preferences which have not attained a 15-percent threshold on a statewide basis shall not be entitled to any at-large delegates.

If a given presidential preference is entitled to one or more delegate positions but would not otherwise be entitled to an alternate position, that preference shall be allotted one at-large alternate position.

(d) In the selection of the at-large delegation, priority of consideration shall be given to African Americans, Hispanics, Native Americans, Asian/Pacific Americans, the disabled, and women. The election of at-large delegates and alternates shall be used, if necessary, to achieve the equal division of positions between men and women, and may be used to achieve the representation goals established in the State Democratic party's affirmative action plan. Delegates and alternates are to be considered separate groups for this purpose.

(e) Persons desiring to seek these at-large delegate or alternate positions may file a statement of candidacy designating their presidential or uncommitted preference and a signed pledge of support for the presidential candidates (including uncommitted status) with the state party beginning Monday, April 20, 1992, and ending at 5 p.m., June 4, 1992. The state party chair shall convey to

the presidential candidate, or that candidate's authorized representative or representatives, not later than June 5, 1992, a list of all persons who have filed for delegate or alternate pledged to that presidential candidate. Each presidential candidate, or that candidate's authorized representative or representatives, shall then file with the state party chair, by June 10, 1992, a list of all the candidates he or she has approved, provided that approval is given to at least three times the number of candidates for delegate and three times the number of candidates for alternate to be selected. Failure to respond shall be deemed approval of all delegate candidates submitted to the presidential candidate unless the presidential candidate, or the candidate's authorized representative or representatives, signifies otherwise in writing to the state party chair no later than 5 p.m., June 10, 1992.

(f) The statement of candidacy for at-large delegates and for at-large alternates shall be the same. After the at-large delegates are elected by the district level delegates, those persons not chosen shall then be considered candidates for at-large alternate positions unless they specify otherwise when filing.

(g) If a presidential candidate is no longer a candidate at the time of selection of the at-large delegates, those at-large slots that would have been allocated to the candidate shall be proportionally divided among the remaining preferences entitled to an allocation.

(h) The state party chair shall certify in writing to the Secretary of the DNC the election of the state's at-large delegates and alternates to the Democratic National Convention within three days after their election.

SEC. 11. Section 10015 of the Elections Code is amended to read:

10015. (a) (1) Any voter may seek a writ of mandate alleging that an error or omission has occurred or is about to occur in the placing of any name on, or in the printing of, a ballot, sample ballot, voter pamphlet or other official matter, or that any neglect of duty has occurred or is about to occur.

(2) A peremptory writ of mandate shall issue only upon proof that the error, omission, or neglect is in violation of this code or the Constitution and that issuance of the writ will not substantially interfere with the conduct of the election.

(3) The action or appeal shall have priority over all other civil matters.

(b) Venue for a proceeding under this section shall be exclusively in Sacramento County in any of the following cases:

(1) The Secretary of State is named as a real party in interest or as a respondent.

(2) A candidate for statewide elective office is named as a party.

(3) A statewide measure that is to be placed on the ballot is the subject of the proceeding.

SEC. 12. Section 10211 of the Elections Code is amended to read:

10211. (a) With the exception of candidates for Justice of the State Supreme Court or court of appeal, immediately under the

name of each candidate, and not separated from the name by any line, may appear at the option of the candidate only one of the following designations:

(1) Words designating the elective city, county, district, state, or federal office which the candidate holds at the time of filing the nomination documents to which he or she was elected by vote of the people, or to which he or she was appointed, in the case of a superior, municipal, or justice court judge.

(2) The word "incumbent" if the candidate is a candidate for the same office which he or she holds at the time of filing the nomination papers, and was elected to that office by a vote of the people, or, in the case of a superior, municipal, or justice court judge, was appointed to that office.

(3) No more than three words designating the principal professions, vocations, or occupations of the candidate. For purposes of this section, all California geographical names shall be considered to be one word.

(4) The phrase "appointed incumbent" if the candidate holds an office other than a judicial office by virtue of appointment, and the candidate is a candidate for election to the same office, or, if the candidate is a candidate for election to the same office or to some other office, the word "appointed" and the title of the office. In either instance, the candidate may not use the unmodified word "incumbent" or any words designating the office unmodified by the word "appointed." However, the phrase "appointed incumbent" shall not be required of a candidate who seeks reelection to an office which he or she holds and to which he or she was appointed, as a nominated candidate, in lieu of an election, pursuant to Sections 5326 and 5328 of the Education Code or Section 8873, 9373, 9723, 22843.5, 22844, or 23520 of the Elections Code.

(b) Neither the Secretary of State nor any other election official shall accept a designation that:

(1) Would mislead the voter.

(2) Would suggest an evaluation of a candidate, such as outstanding, leading, expert, virtuous, or eminent.

(3) Abbreviates the word "retired" or places it following any word or words which it modifies.

(4) Uses a word or prefix, such as "former" or "ex-," which means a prior status. The only exception is the use of the word "retired."

(5) Uses the name of any political party, whether or not it has qualified for the ballot.

(6) Uses a word or words referring to a racial, religious, or ethnic group.

(7) Refers to any activity, which activity is prohibited by law.

(c) If, upon checking the nomination documents, the election official finds the designation to be in violation of any of the restrictions set forth in this section, the election official shall notify the candidate by registered or certified mail return receipt requested, addressed to the mailing address appearing on the

candidate's nomination documents.

(1) The candidate shall, within three days from the date of receipt of the notice, appear before the election officer or, in the case of the Secretary of State, notify the Secretary of State by telephone, and provide an alternate designation.

(2) In the event the candidate fails to provide an alternate designation, no designation shall appear after the candidate's name.

(d) No designation given by a candidate shall be changed by the candidate after the final date for filing nomination documents, except as specifically requested by the election official as specified in subdivision (c) or as provided in subdivision (e).

(e) The designation shall remain the same for all purposes of both primary and general elections, unless the candidate, at least 83 days prior to the general election, requests in writing a different designation that the candidate is entitled to use at the time of the request.

(f) In all cases words so used shall be printed in 8-point roman uppercase and lowercase type except that if the designation selected is so long that it would conflict with the space requirements of Sections 10207 and 10221, the election official shall use a type size for the designation for each candidate for that office sufficiently smaller to meet these requirements.

(g) Whenever a foreign language translation of a candidate's designation is required under the Voting Rights Act of 1965 (42 U.S.C.A. Sec. 1971) to appear on the ballot in addition to the English language version, it shall be as short as possible, as consistent as is practicable with the provisions of this section, and shall employ abbreviations and initials wherever possible in order to avoid undue length.

SEC. 12.5. Section 10211 of the Elections Code is amended to read:

10211. (a) With the exception of candidates for Justice of the State Supreme Court or court of appeal, immediately under the name of each candidate, and not separated from the name by any line, may appear at the option of the candidate only one of the following designations:

(1) Words designating the elective city, county, district, state, or federal office which the candidate holds at the time of filing the nomination documents to which he or she was elected by vote of the people, or to which he or she was appointed, in the case of a superior, municipal, or justice court judge.

(2) The word "incumbent" if the candidate is a candidate for the same office which he or she holds at the time of filing the nomination papers, and was elected to that office by a vote of the people, or, in the case of a superior, municipal, or justice court judge, was appointed to that office.

(3) No more than three words designating either the current principal profession, vocation, or occupation of the candidate, or the principal profession, vocation, or occupation of the candidate during

the calendar year immediately preceding the filing of nomination documents. For purposes of this section, all California geographical names shall be considered to be one word.

(4) The phrase "appointed incumbent" if the candidate holds an office other than a judicial office by virtue of appointment, and the candidate is a candidate for election to the same office, or, if the candidate is a candidate for election to the same office or to some other office, the word "appointed" and the title of the office. In either instance, the candidate may not use the unmodified word "incumbent" or any words designating the office unmodified by the word "appointed." However, the phrase "appointed incumbent" shall not be required of a candidate who seeks reelection to an office which he or she holds and to which he or she was appointed, as a nominated candidate, in lieu of an election, pursuant to Sections 5326 and 5328 of the Education Code or Section 8873, 9373, 9723, 22843.5, 22844, or 23520 of the Elections Code.

(b) Neither the Secretary of State nor any other election official shall accept a designation that:

(1) Would mislead the voter.

(2) Would suggest an evaluation of a candidate, such as outstanding, leading, expert, virtuous, or eminent.

(3) Abbreviates the word "retired" or places it following any word or words which it modifies.

(4) Uses a word or prefix, such as "former" or "ex-," which means a prior status. The only exception is the use of the word "retired."

(5) Uses the name of any political party, whether or not it has qualified for the ballot.

(6) Uses a word or words referring to a racial, religious, or ethnic group.

(7) Refers to any activity, which activity is prohibited by law.

(c) If, upon checking the nomination documents, the election official finds the designation to be in violation of any of the restrictions set forth in this section, the election official shall notify the candidate by registered or certified mail return receipt requested, addressed to the mailing address appearing on the candidate's nomination documents.

(1) The candidate shall, within three days from the date of receipt of the notice, appear before the election officer or, in the case of the Secretary of State, notify the Secretary of State by telephone, and provide an alternate designation.

(2) In the event the candidate fails to provide an alternate designation, no designation shall appear after the candidate's name.

(d) No designation given by a candidate shall be changed by the candidate after the final date for filing nomination documents, except as specifically requested by the elections official as specified in subdivision (c) or as provided in subdivision (e).

(e) The designation shall remain the same for all purposes of both primary and general elections, unless the candidate, at least 83 days prior to the general election, requests in writing a different

designation which the candidate is entitled to use at the time of the request.

(f) In all cases words so used shall be printed in 8-point roman uppercase and lowercase type except that if the designation selected is so long that it would conflict with the space requirements of Sections 10207 and 10221, the elections official shall use a type size for the designation for each candidate for that office sufficiently smaller to meet these requirements.

(g) Whenever a foreign language translation of a candidate's designation is required under the Voting Rights Act of 1965 (42 U.S.C.A. Sec. 1971) to appear on the ballot in addition to the English language version, it shall be as short as possible, as consistent as is practicable with this section, and shall employ abbreviations and initials wherever possible in order to avoid undue length.

SEC. 13. Section 14005 of the Elections Code is amended to read:

14005. The clerk shall furnish to the precinct officers:

(a) Printed copies of the indexes.

(b) Necessary printed blanks for the roster, tally sheets, lists of voters, declarations and returns.

(c) Envelopes in which to enclose returns.

(d) Not less than six nor more than 12 instruction cards to each precinct for the guidance of voters in obtaining and marking their ballots. On each card shall be printed necessary instructions and the provisions of Sections 14231, 14232, 14241, 14244, 14249, 14403, 17001, 17004, 17005, 17009, 17010, 17011, 29470, 29480, 29506, 29644, and 29649.

(e) A digest of the election laws with any further instructions the county clerk may desire to make.

(f) An American flag of sufficient size to adequately assist the voter in identifying the polling place. The flag is to be erected at or near the polling place on election day.

(g) A ballot container, properly marked on the outside indicating its contents.

(h) When it is necessary to supply additional ballot containers, these additional containers shall also be marked on the outside, indicating their contents.

(i) Sufficient ink pads and stamps for each booth. The stamps shall be one solid piece and shall be made so that a cross (+) may be made with either end. If ballots are to be counted by vote tabulating equipment, an adequate supply of other approved voting devices shall be furnished. All voting stamps or voting devices shall be maintained in good usable condition.

(j) When a candidate or candidates have qualified to have his or her or their names counted pursuant to Chapter 9 (commencing with Section 17100) of Division 12, a sufficient number of ink pens or pencils in the voting booths for the purpose of writing in on the ballot the name of the candidate or candidates.

(k) A sufficient number of cards to each polling place containing the telephone number of the office to which a voter may call to

obtain information about his or her precinct location. The card shall state that the voter may call collect during polling hours.

(*l*) An identifying badge or insignia for each member of the precinct board. The member shall print his or her name and the precinct number thereon and shall wear the badge or insignia at all times in the performance of duties, so as to be readily identified as a member of the precinct board by all persons entering the polling place.

(m) Facsimile copies of the ballot containing ballot measures and ballot instructions printed in Spanish or other languages as provided in Section 14203.

(n) Sufficient copies of the notices to be posted on the indexes used at the polls. The notice shall read as follows: "This index shall not be marked in any manner except by a member of the precinct board acting pursuant to Section 14251 of the Elections Code. Any person who removes, tears, marks, or otherwise defaces this index with the intent to falsify or prevent others from readily ascertaining the name, address, or political affiliation of any voter, or the fact that a voter has or has not voted, is guilty of a misdemeanor."

(o) A roster of voters for each precinct in the form prescribed in Section 14005.5.

(p) In addition, the clerk may, with the approval of the board of supervisors, furnish the original books of affidavits of registration or other material necessary to verify signatures to the precinct officers.

This section shall become operative on January 1, 1990.

SEC. 14. Section 14221 of the Elections Code is amended to read:

14221. If the challenge is on the ground that the person challenged has already cast a ballot for this election, a member of the precinct board shall tender to the person challenged this oath:

"You do swear (or affirm) that you have not previously voted in this election, either by absentee ballot or at a polling place."

SEC. 15. Section 17121 of the Elections Code is amended to read:

17121. (a) Except as to presidential electors, the Secretary of State shall compile the returns for:

(1) All candidates for statewide office.

(2) All candidates for Assembly, State Senate, Congress, State Board of Equalization, and judicial offices, except judges of an inferior court.

(3) All statewide measures.

(b) The Secretary of State shall make out, certify, and file a statement of the vote from the compiled returns no later than the 39th day after the election.

SEC. 16. Section 22934 of the Elections Code is amended to read:

22934. The city clerk shall immediately sign and deliver to each person elected a certificate of election. He or she shall also administer to each person elected the oath of office prescribed in the California Constitution.

SEC. 17. Section 25002 of the Elections Code is amended to read:

25002. On the 39th day after the election, or as soon within that

time as the returns have been received from the entire state or a congressional district, as the case may be, the Secretary of State shall determine the votes cast for candidates for Senator and Representative and certify to the persons having the highest number of votes for the respective offices as duly elected.

SEC. 18. Section 25500 of the Elections Code is amended to read:

25500. (a) Each candidate for a party nomination for the office of State Senator or Member of the Assembly, or for any state constitutional office, or for Insurance Commissioner, at the direct primary election shall file a written and signed declaration of his or her intention to become a candidate for his or her party's nomination for that office. The declaration of intention shall be filed with either the Secretary of State or the clerk of the county in which the candidate is a resident. The declaration of intention shall be filed, on a form to be supplied by the county elections official, not more than 14 nor less than five days prior to the first day on which nomination papers may be presented for filing. However, if the incumbent fails to file a declaration of intention by the end of that period, persons other than the incumbent may file declarations of intention no later than the first day for filing nomination papers. The declaration of intention provided for in this section shall be in substantially the following form:

I hereby declare my intention to become a candidate for the _____ Party's nomination
(Name of political party)
for the office of _____
(Name of office and district, if any)
at the direct primary election.

_____
(Signature of candidate)

_____
(Address of candidate)

(b) No person may be a candidate nor have his or her name printed upon any ballot as a candidate for a party nomination for the office of State Senator or Member of the Assembly, or for any state constitutional office, or for Insurance Commissioner at the direct primary election unless he or she has filed the declaration of intention provided for in this section. However, if the incumbent of the office who is affiliated with any qualified political party files a declaration of intention, but for any reason fails to qualify for nomination for the office by the last day prescribed for the filing of nomination papers, an additional five days shall be allowed for the filing of nomination papers for the office, and any person, other than the incumbent if otherwise qualified, may file nomination papers for the office during the extended period, notwithstanding that he or she has not filed a written and signed declaration of intention to become a candidate for the office as provided in subdivision (a).

SEC. 19. Section 27032 of the Elections Code is amended to read:

27032. (a) The petition sections shall be designed so that each signer shall personally affix his or her:

(1) Signature.

(2) Printed name.

(3) Residence address, giving street and number, or if no street or number exists, adequate designation of residence so that the location may be readily ascertained.

(4) Name of incorporated city or unincorporated community.

(b) A margin, at least one inch wide, shall be left blank across the top of each page of the petition. A margin, at least one-half inch wide, shall be left blank along the bottom of each page of the petition.

(c) A space, at least one inch wide, shall be left blank after each name for the use of the clerk in verifying the petition.

SEC. 20. Section 27036 of the Elections Code is amended to read:

27036. Each section of the petition shall have attached to it a declaration signed by the circulator of that section of the petition, setting forth all of the following:

(a) The printed name of the circulator.

(b) The residence address of the circulator, giving street and number, or if no street or number exists, adequate designation of residence so that the location may be readily ascertained.

(c) That the circulator circulated that section and witnessed the appended signatures being written.

(d) That according to the best information and belief of the circulator, each signature is the genuine signature of the person whose name it purports to be.

(e) That the circulator is a registered voter of the electoral jurisdiction of the officer sought to be recalled.

(f) The dates between which all the signatures to the petition section were obtained.

(g) The circulator shall certify to the content of the declaration as to its truth and correctness, under penalty of perjury under the laws of the State of California, with the signature of his or her name at length, including given name, middle name or initial, or initial and middle name. The circulator shall state the date and the place of execution on the declaration immediately preceding the circulator's signature.

SEC. 21. Section 8211 of the Government Code is amended to read:

8211. Fees charged by a notary public for the following services shall not exceed the fees prescribed by this section.

(a) For taking an acknowledgment or proof of a deed, or other instrument, to include the seal and the writing of the certificate, the sum of five dollars ($5) for each signature.

(b) For administering an oath or affirmation to one person and executing the jurat, including the seal, the sum of five dollars ($5).

(c) For all services rendered in connection with the taking of any deposition, the sum of ten dollars ($10), and in addition thereto, the

sum of two dollars ($2) for administering the oath to the witness and the sum of two dollars ($2) for the certificate to such deposition.

(d) For every protest for the nonpayment of a promissory note or for the nonpayment or nonacceptance of a bill of exchange, draft, or check, the sum of four dollars ($4).

(e) For serving every notice of nonpayment of a promissory note or of nonpayment or nonacceptance of a bill of exchange, order, draft, or check, the sum of two dollars ($2).

(f) For recording every protest, the sum of two dollars ($2).

(g) No fee shall be charged to notarize signatures on absentee ballot identification envelopes or other voting materials.

SEC. 22. Section 36512.5 is added to the Government Code, to read:

36512.5. (a) Notwithstanding Section 36512, or any other provision of law, the City of Milpitas may hold a special election on December 10, 1991, to fill the vacancy in the city council created as a result of the resignation by a council member.

(b) The Legislature finds that, because of the unique circumstances applicable to the holding of a special election in the City of Milpitas to fill the existing council vacancy, a statute of general applicability cannot be enacted within the meaning of subdivision (b) of Section 16 of Article IV of the California Constitution.

(c) This section shall remain in effect only until January 1, 1992, and on that date is repealed.

SEC. 23. Section 57146 of the Government Code is amended to read:

57146. (a) On the basis of the time reasonably necessary to prepare and print the arguments, analysis, and sample ballots for the election, the clerk of the conducting authority shall fix and determine a reasonable date prior to the election after which no arguments for or against the measure may be submitted for printing and distribution to the voters. Notice of the date fixed shall be published in accordance with Section 56153 in a newspaper of general circulation which is circulated in the affected territory. Arguments may be changed until and including the date fixed by the clerk.

(b) The notice shall contain all of the following information:

(1) A statement of the proposition to be voted on and a general description of the boundaries of the affected territory.

(2) An invitation to any registered voter or association of citizens entitled to vote on the proposal to submit and file with the clerk for printing and distribution in the ballot pamphlet, an argument for or an argument against the proposal.

(3) The date of the election.

(4) A statement that only one argument for and one argument against will be selected and printed in the ballot pamphlet.

(5) A statement that arguments shall not exceed 300 words in length and shall be accompanied by not more than five signatures.

SEC. 24. Section 12.5 of this bill incorporates amendments to Section 10211 of the Elections Code proposed by both this bill and SB 70. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1992, but this bill becomes operative first, (2) each bill amends Section 10211 of the Elections Code, and (3) this bill is enacted after SB 70, in which case Section 10211 of the Elections Code, as amended by Section 12 of this bill, shall remain operative only until the operative date of SB 70, at which time Section 12.5 of this bill shall become operative.

SEC. 25. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to achieve the purposes of this act at the earliest opportunity, it is necessary that this act take effect immediately.

CHAPTER 394

An act to amend Sections 1689.6, 1689.7, and 1722 of the Civil Code, relating to contracts.

[Approved by Governor September 11, 1991. Filed with Secretary of State September 12, 1991.]

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

SECTION 1. Section 1689.6 of the Civil Code is amended to read:

1689.6. (a) In addition to any other right to revoke an offer, the buyer has the right to cancel a home solicitation contract or offer until midnight of the third business day after the day on which the buyer signs an agreement or offer to purchase which complies with Section 1689.7.

(b) In addition to any other right to revoke an offer, any buyer has the right to cancel a home solicitation contract or offer for the purchase of a personal emergency response unit until midnight of the seventh business day after the day on which the buyer signs an agreement or offer to purchase which complies with Section 1689.7.

(c) Cancellation occurs when the buyer gives written notice of cancellation to the seller at the address specified in the agreement or offer.

(d) Notice of cancellation, if given by mail, is effective when deposited in the mail properly addressed with postage prepaid.

(e) Notice of cancellation given by the buyer need not take the particular form as provided with the contract or offer to purchase and, however expressed, is effective if it indicates the intention of the buyer not to be bound by the home solicitation contract or offer.

(f) "Personal emergency response unit," for purposes of this section, means an in-home radio transmitter device or two-way radio

device generally, but not exclusively, worn on a neckchain, wrist strap , or clipped to clothing, and connected to a telephone line through which a monitoring station is alerted of an emergency and emergency assistance is summoned.

SEC. 2. Section 1689.7 of the Civil Code is amended to read:

1689.7. (a) (1) In a home solicitation contract or offer the buyer's agreement or offer to purchase shall be written in the same language, e.g., Spanish, as principally used in the oral sales presentation, shall be dated, signed by the buyer, and except as provided in paragraph (2), shall contain in immediate proximity to the space reserved for his or her signature a conspicuous statement in a size equal to at least 10-point bold type, as follows: "You, the buyer, may cancel this transaction at any time prior to midnight of the third business day after the date of this transaction. See the attached notice of cancellation form for an explanation of this right."

(2) The statement required pursuant to this subdivision for a home solicitation contract or offer for the purchase of a personal emergency response unit, as defined in Section 1689.6, is as follows: "You, the buyer, may cancel this transaction at any time prior to midnight of the seventh business day after the date of this transaction. See the attached notice of cancellation form for an explanation of this right."

(b) The agreement or offer to purchase shall contain on the first page, in a type size no smaller than that generally used in the body of the document, the following: (1) the name and address of the seller to which the notice is to be mailed, and (2) the date the buyer signed the agreement or offer to purchase.

(c) Except as provided in subdivision (d), the agreement or offer to purchase shall be accompanied by a completed form in duplicate, captioned "Notice of Cancellation" which shall be attached to the agreement or offer to purchase and be easily detachable, and which shall contain in type of at least 10-point the following statement written in the same language, e.g., Spanish, as used in the contract:

"Notice of Cancellation"

/enter date of transaction/

(Date)

You may cancel this transaction, without any penalty or obligation, within three business days from the above date.

If you cancel, any property traded in, any payments made by you under the contract or sale, and any negotiable instrument executed by you will be returned within 10 days following receipt by the seller of your cancellation notice, and any security interest arising out of the transaction will be canceled.

If you cancel, you must make available to the seller at your residence, in substantially as good condition as when received, any

goods delivered to you under this contract or sale, or you may, if you wish, comply with the instructions of the seller regarding the return shipment of the goods at the seller's expense and risk.

If you do make the goods available to the seller and the seller does not pick them up within 20 days of the date of your notice of cancellation, you may retain or dispose of the goods without any further obligation. If you fail to make the goods available to the seller, or if you agree to return the goods to the seller and fail to do so, then you remain liable for performance of all obligations under the contract.

To cancel this transaction, mail or deliver a signed and dated copy of this cancellation notice, or any other written notice, or send a telegram

to _____,
/name of seller/

at _____
/address of sellers place of business/

not later than midnight of _____
(Date)

I hereby cancel this transaction _____
(Date)

_____
(Buyer's signature)

(d) Any agreement or offer to purchase a personal emergency response unit, as defined in Section 1689.6, shall be subject to the requirements of subdivision (c), and shall be accompanied by the "Notice of Cancellation" required by subdivision (c), except that the first paragraph of that notice shall be deleted and replaced with the following paragraph:

You may cancel this transaction, without any penalty or obligation, within seven business days from the above date.

(e) The seller shall provide the buyer with a copy of the contract or offer to purchase and the attached notice of cancellation, and shall inform the buyer orally of his or her right to cancel and the requirement that cancellation be in writing, at the time the home solicitation contract or offer is executed.

(f) Until the seller has complied with this section the buyer may cancel the home solicitation contract or offer.

(g) "Contract or sale" as used in subdivision (c) means "home solicitation contract or offer" as defined by Section 1689.5.

SEC. 3. Section 1722 of the Civil Code is amended to read:

1722. (a) (1) Whenever a contract is entered into between a consumer and a retailer with 25 or more employees relating to the sale of merchandise which is to be delivered by the retailer or the retailer's agent to the consumer at a later date, and the parties have agreed that the presence of the consumer is required at the time of delivery, the retailer shall specify either at the time of the sale or at a later date a four-hour time period within which any delivery shall

be made. Whenever a contract is entered into between a consumer and a retailer with 25 or more employees for service or repair ofmerchandise, whether or not the merchandise was sold by the retailer to the consumer, and the parties have agreed that the presence of the consumer is required at the time of service or repair, upon receipt of a request for service or repair under the contract, the retailer shall specify a four-hour period within which the service or repair shall be commenced. Once a delivery, service, or repair time is established, the retailer or the retailer's agent shall deliver the merchandise to the consumer, or commence service or repair of the merchandise, within that four-hour period.

(2) If the merchandise is not delivered, or service or repair are not commenced, within the specified four-hour period, except for delays caused by unforeseen or unavoidable occurrences beyond the control of the retailer, the consumer may bring an action in small claims court against the retailer for lost wages, expenses actually incurred, or other actual damages not exceeding a total of five hundred dollars ($500).

(3) No action shall be considered valid if the consumer was not present at the time, within the specified period, when the retailer or the retailer's agent attempted to make the delivery, service, or repairs or made a diligent attempt to notify the consumer of its inability to do so because of unforeseen or unavoidable occurrences beyond its control.

(4) In any small claims action, logs and other business records maintained by the retailer or the retailer's agent in the ordinary course of business shall be prima facie evidence of the time period specified for the delivery, service, or repairs and of the time when the merchandise was delivered, or of a diligent attempt by the retailer or the retailer's agent to notify the consumer of delay caused by unforeseen or unavoidable occurrences.

(5) It shall be a defense to the action if a diligent attempt was made to notify the consumer of the delay caused by unforeseen or unavoidable occurrences beyond the control of the retailer or the retailer's agent, or the retailer or the retailer's agent was unable to notify the consumer of the delay because of the consumer's absence or unavailability during the four-hour period, and, in either instance, the retailer or the retailer's agent makes the delivery, service, or repairs within two hours of a newly agreed upon time or, if the consumer unreasonably declines to arrange a new time for the delivery, service, or repairs.

(b) (1) Cable television companies shall inform their subscribers of their right to service connection or repair within a four-hour period, if the presence of the subscriber is required, by offering the four-hour period at the time the subscriber calls for service connection or repair, or by notifying their subscribers by mail three times a year of this service. Whenever a subscriber contracts with a cable television company for a service connection or repair, and the parties have agreed that the presence of the subscriber is required,

the cable company shall specify the time for the commencement of the service connection or repair within the four-hour period if the subscriber requests.

(2) If the service connection or repair is not commenced within the specified four-hour period, except for delays caused by unforeseen or unavoidable occurrences beyond the control of the company, the subscriber may bring an action in small claims court against the company for lost wages, expenses actually incurred or other actual damages not exceeding a total of five hundred dollars ($500).

(3) No action shall be considered valid if the subscriber was not present at the time, within the specified period, that the company attempted to make the service connection or repair.

(4) In any small claims action, logs and other business records maintained by the company or its agents in the ordinary course of business shall be prima facie evidence of the time period specified for the commencement of the service connection or repair and the time that the company or its agents attempted to make the service connection or repair, or of a diligent attempt by the company to notify the subscriber of a delay caused by unforeseen or unavoidable occurrences.

(5) It shall be a defense to the action if a diligent attempt was made to notify the subscriber of delay caused by unforeseen or unavoidable occurrences beyond the control of the company or its agents, or the company or its agents were unable to notify the subscriber because of the subscriber's absence or unavailability during the four-hour period, and, in either instance, the cable television company commenced service or repairs within a newly agreed upon two-hour period.

(6) No action shall be considered valid against a cable television company pursuant to this section when the franchise or any local ordinance provides the subscriber with a remedy for a delay in commencement of a service connection or repair and the subscriber has elected to pursue that remedy. If a subscriber elects to pursue his or her remedies against a cable television company under this section, the franchising or state or local licensing authority shall be barred from imposing any fine, penalty, or other sanction against the company, arising out of the same incident.

(c) (1) Utilities shall inform their subscribers of their right to service connection or repair within a four-hour period, if the presence of the subscriber is required, by offering the four-hour period at the time the subscriber calls for service connection or repair, or by notifying the subscriber by mail three times a year of this service. Whenever a subscriber contracts with the utility for a service connection or repair, and the parties have agreed that the presence of the subscriber is required, the utility shall specify the time for the commencement of the service connection or repair within the four-hour period if the subscriber requests.

(2) If the service connection or repair is not commenced within

the specified four-hour period, except for delays caused by unforeseen or unavoidable circumstances beyond the control of the utility, the subscriber may bring an action in small claims court against the utility for lost wages, expenses actually incurred, or other actual damages not exceeding a total of five hundred dollars ($500).

(3) No action shall be considered valid if the subscriber was not present at the time, within the specified period, that the utility attempted to make the service connection or repair.

(4) In any small claims action, logs and other business records maintained by the utility or its agents in the ordinary course of business shall be prima facie evidence of the time period specified for the commencement of the service connection or repair and of the time that the utility attempted to make the service connection or repair, or of a diligent attempt by a utility to notify the subscriber of delay caused by unforeseen or unavoidable occurrences.

(5) It shall be a defense to the action if a diligent attempt was made by the utility to notify the subscriber of delay caused by unforeseen or unavoidable occurrences beyond the control of the utility, and the utility commenced service within a newly agreed upon two-hour period.

(d) Any provision of a delivery, service, or repair contract in which the consumer or subscriber agrees to modify or waive any of the rights afforded by this section shall be void as contrary to public policy.

CHAPTER 395

An act to amend Sections 51011, 51013.5, and 51019.1 of the Government Code, relating to pipelines.

[Approved by Governor September 11, 1991 Filed with Secretary of State September 12, 1991.]

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

SECTION 1. Section 51011 of the Government Code is amended to read:

51011. The State Fire Marshal shall adopt hazardous liquid pipeline safety regulations in compliance with the federal law relating to hazardous liquid pipeline safety, including, but not limited to, compliance orders, penalties, and inspection and maintenance provisions, and including amendments to those laws and regulations which may be hereafter enacted and adopted. Regulations adopting the minimum standards for hazardous liquid pipelines contained in the Federal Hazardous Liquid Pipeline Safety Act, 49 U.S.C. Sec. 2001 et seq., and Title 49 of the Code of Federal Regulations, by the State Fire Marshal are exempt from the procedures specified in Article 5 (commencing with Section 11346)

of Chapter 3.5 of Part 1 of Division 3 of Title 2 of the Government Code, except that those regulations shall be submitted to the Office of Administrative Law for filing with the Secretary of State and publication in the California Code of Regulations.

The State Fire Marshal may exempt the application of regulations adopted pursuant to this section to any pipeline, or portion thereof, when it is determined that the risk to public safety is slight and the probability of injury or damage remote.

Notification of exemptions shall be written, and shall include a discussion of those factors which the State Fire Marshal considers significant to the granting of the exemption.

SEC. 2. Section 51013.5 of the Government Code is amended to read:

51013.5. (a) Every newly constructed pipeline, existing pipeline, or part of a pipeline system that has been relocated or replaced, and every pipeline that transports a hazardous liquid substance or highly volatile liquid substance, shall be tested in accordance with Subpart E (commencing with Section 195.300) of Part 195 of Title 49 of the Code of Federal Regulations.

(b) Every pipeline not provided with properly sized automatic pressure relief devices or properly designed pressure limiting devices shall be hydrostatically tested annually.

(c) Every pipeline over 10 years of age and not provided with effective cathodic protection shall be hydrostatically tested every three years, except for those on the State Fire Marshal's list of higher risk pipelines, which shall be hydrostatically tested annually.

(d) Every pipeline over 10 years of age and provided with effective cathodic protection shall be hydrostatically tested every five years, except for those on the State Fire Marshal's list of higher risk pipelines which shall be hydrostatically tested every two years.

(e) Piping within a refined products bulk loading facility served by pipeline shall be tested hydrostatically at 125 percent of maximum allowable operating pressure utilizing the product ordinarily transported in that piping if that piping is operated at a stress level of 20 percent or less of the specified minimum yield strength of the pipe. The frequency for pressure testing these pipelines shall be every five years for those pipelines with effective cathodic protection and every three years for those pipelines without effective cathodic protection. If that piping is observable, visual inspection may be the method of testing.

(f) Beginning on July 1, 1990, and continuing until the regulations adopted by the State Fire Marshal pursuant to subdivision (g) take effect, each pipeline within the State Fire Marshal's jurisdiction which satisfies any of the following sets of criteria shall be placed on the State Fire Marshal's list of higher risk pipelines until five years pass without a reportable leak due to corrosion or defect on that pipeline. Initially, pipelines on that list shall be tested by the next scheduled test date, or within two years of being placed on the list, whichever is first. On July 1, 1990, pipeline operators shall provide

the State Fire Marshal with a list of all their pipelines which satisfy the criteria in this subdivision as of July 1, 1990. If any pipeline becomes eligible for the list of higher risk pipelines after that date, the pipeline company shall report that fact to the State Fire Marshal within 30 days, and the pipeline shall be placed on the list retroactively to the date on which it became eligible for listing. Pipelines which are found to belong on the list, but are not so reported by the operator to the State Fire Marshal, shall be placed on the list retroactively. Operators failing to properly report their pipelines shall be subject to penalties under Section 51018.6. Pipelines not covered under the risk criteria developed pursuant to subdivision (g) shall be deleted from the list when regulations are adopted pursuant to that subdivision. For purposes of this subdivision, a leak which is traceable to an external force, but for which corrosion is partly responsible, shall be deemed caused by corrosion, "defect" refers to manufacturing or construction defects, and "leak" or "reportable leak" means a rupture required to be reported pursuant to Section 51018. As long as all pipelines are tested in their entirety at least as frequently as standard risk pipelines under subdivisions (c) and (d), it shall suffice for additional tests on higher risk pipelines to cover 20 pipeline miles in all directions along an operator's pipeline from the position of the leak or leaks which led to the inclusion or retention of that pipeline on the higher risk list. The interim list shall include pipelines which meet any of the following criteria:

(1) Have suffered two or more reportable leaks, not including leaks during a certified hydrostatic pressure test, due to corrosion or defect in the prior three years.

(2) Have suffered three or more reportable leaks, not including leaks during a certified hydrostatic pressure test, due to corrosion, defects, or external forces, but not all due to external forces, in the prior three years.

(3) Have suffered a reportable leak, except during a certified hydrostatic pressure test, due to corrosion or defect of more than 50,000 gallons, or 10,000 gallons in a standard metropolitan statistical area, in the prior three years; or have suffered a leak due to corrosion or defect which the State Fire Marshal finds has resulted in more than 42 gallons of a hazardous liquid within the State Fire Marshal's jurisdiction entering a waterway in the prior three years; or have suffered a reportable leak of a hazardous liquid with a flashpoint of less than 140 degrees Fahrenheit, or 60 degrees centigrade, in the prior three years.

(4) Are less than 50 miles long, and have experienced a reportable leak, except during a certified hydrostatic pressure test, due to corrosion or a defect in the prior three years. For the purposes of this paragraph, the length of a pipeline with more than two termini shall be the longest distance between two termini along the pipeline.

(5) Have experienced a reportable leak in the prior five years due to corrosion or defect, except during a certified hydrostatic pressure

test, on a section of pipe more than 50 years old. For pipelines which fall in this category, and no other category of higher risk pipeline, additional tests required by this subdivision shall be required only on segments of the pipe more than 50 years old as long as all pipe more than 50 years old which is within 20 pipeline miles from the leak in all directions along an operator's pipeline is tested.

(g) The State Fire Marshal shall study indicators and precursors of serious pipeline accidents, and, in consultation with the Pipeline Safety Advisory Committee, shall develop criteria for identifying which hazardous liquid pipelines pose the greatest risk to people and the environment due to the likelihood of, and likely seriousness of, an accident due to corrosion or defect. The study shall give due consideration to research done by the industry, the federal government, academia, and to any other information which the State Fire Marshal shall deem relevant, including, but not limited to, recent leak history, pipeline location, and materials transported. Beginning January 1, 1992, using the criteria identified in that study, the State Fire Marshal shall maintain a list of higher risk pipelines, which exceed a standard of risk to be determined by the State Fire Marshal, and which shall be tested as required in subdivisions (c) and (d) as long as they remain on the list. By January 1, 1992, after public hearings, the State Fire Marshal shall adopt regulations to implement this subdivision.

(h) In addition to the requirements of subdivisions (a) to (e), inclusive, the State Fire Marshal may require any pipeline subject to this chapter to be subjected to a pressure test, or any other test or inspection, at any time, in the interest of public safety.

(i) Test methods other than the hydrostatic tests required by subdivisions (b), (c), (d), and (e), including inspection by instrumented internal inspection devices, may be approved by the State Fire Marshal on an individual basis. If the State Fire Marshal approves an alternative to a pressure test in an individual case, the State Fire Marshal may require that the alternative test be given more frequently than the testing frequencies specified in subdivisions (b), (c), (d), and (e).

(j) The State Fire Marshal shall adopt regulations before January 1, 1992, to establish what the State Fire Marshal deems to be an appropriate frequency for tests and inspections, including instrumented internal inspections, which, when permitted as a substitute for tests required under subdivisions (b), (c), and (d), do not damage pipelines or require them to be shut down for the testing period. That testing shall in no event be less frequent than is required by subdivisions (b), (c), and (d). Each time one of these tests is required on a pipeline, it shall be approved on the same individual basis as under subdivision (i). If it is not approved, a hydrostatic test shall be carried out at the time the alternative test would have been carried out, and subsequent tests shall be carried out in accordance with the time intervals prescribed by subdivision (b), (c), or (d), as applicable.

SEC. 3. Section 51019.1 of the Government Code is amended to read:

51019.1. (a) There is hereby created the California Hazardous Liquid Pipeline Safety Fund, consisting of the Local Training Account and the Pipeline Operations Account.

(b) All fees collected pursuant to Sections 51019 and 51019.05 shall be deposited in the Pipeline Operations Account. The money in the account is available, upon appropriation by the Legislature, to the State Fire Marshal for the purpose of carrying out this chapter.

CHAPTER 396

An act to amend Section 25503.6 of the Business and Professions Code, relating to alcoholic beverages.

[Approved by Governor September 11, 1991. Filed with Secretary of State September 12, 1991.]

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

SECTION 1. Section 25503.6 of the Business and Professions Code is amended to read:

25503.6. (a) Notwithstanding any other provision of this chapter, the holder of a beer manufacturer's or winegrower's license may purchase advertising space and time from, or on behalf of, an on-sale retail licensee subject to all of the following conditions:

(1) The on-sale licensee is the owner of an outdoor stadium or a fully enclosed arena with a fixed seating capacity in excess of 10,000 seats located within a county of the eighth class, as defined in Section 28029 of the Government Code.

(2) The outdoor stadium or fully enclosed arena described in paragraph (1) is not owned by a community college district.

(3) The advertising space or time is purchased only in connection with events to be held on the premises of the stadium or arena owned by the on-sale licensee.

(4) The on-sale licensee serves other brands of beer or wine in addition to the brand manufactured by the beer manufacturer or produced by the winegrower purchasing the advertising space or time.

(b) Any purchase of advertising space or time pursuant to subdivision (a) shall be conducted pursuant to a written contract entered into by the holder of the beer manufacturer's or winegrower's license and the on-sale licensee.

(c) Any holder of a beer manufacturer's or winegrower's license who, through coercion or other illegal means, induces a holder of a beer or wine wholesaler's license to fulfill those contractual obligations entered into pursuant to subdivision (a) or (b) shall be guilty of a misdemeanor and shall be punished by imprisonment in

the county jail not exceeding six months, or by a fine in an amount equal to the entire value of the advertising space or time involved in the contract, plus ten thousand dollars ($10,000), or by both imprisonment and fine. The person shall also be subject to license revocation pursuant to Section 24200.

SEC. 2. The Legislature finds that it is necessary that the exception established by this act to the general prohibition against a manufacturer compensating a retailer in any way in connection with the advertising of alcoholic beverages be limited to the express terms of the exception so as not to undermine the general prohibition, and intends that this act be construed accordingly.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 397

An act to amend Sections 44548, 44549, and 44552.5 of the Health and Safety Code, relating to pollution control financing.

[Approved by Governor September 11, 1991. Filed with Secretary of State September 12, 1991.]

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

SECTION 1. Section 44548 of the Health and Safety Code is amended to read:

44548. (a) Subject to any prior contractual obligations to any of its bondholders, the authority may establish one or more small business assistance funds in order to assist small businesses to achieve financing of pollution control facilities. For the purpose of establishing and maintaining small business assistance funds as it determines to be necessary or desirable to secure its bonds or any issuance thereof or for other authorized purposes, the authority, pursuant to its contracts with participating parties, may levy fees or other charges on, or require deposits from, participating parties receiving financing for a project under this division. The total amount of these fees, charges, and deposits with respect to a single issue of bonds shall not exceed 3 percent of the principal amount of that issue of bonds. Prior to levying any fees or charges or requiring deposits, the authority shall adopt regulations for the operation of the

small business assistance funds, the amounts and any payment schedule for the fees, charges, or deposits, eligibility standards for small businesses desiring to use or benefit from the small business assistance funds, and any other matters the authority determines to be necessary for the establishment and maintenance of small business assistance funds. The regulations may provide for differential fees from participating parties based upon the size of a project financed by the authority or other factors determined to be relevant by the authority, and the regulations may restrict any benefits to those eligible small businesses as may be specified in the regulations. The authority may transfer any funds available to it or set aside for its administrative expenses to any small business assistance fund established under this section.

(b) The total amount of financial assistance, as described in subdivision (c), including the maximum liability on any pledge or guarantee, to be provided from any small business assistance fund with respect to any single project financed or assisted by the authority may not exceed one million dollars ($1,000,000).

(c) The forms of financial assistance which the authority may provide under this section include, but are not limited to, payments to reduce, but not eliminate, the interest rate on loans; payments of part or all of the cost of acquiring letters of credit, insurance, guarantees, or other forms of credit support; and payment of part or all of the authority's expenses in issuing revenue bonds or providing other assistance. The authority may pledge any small business assistance fund, not to exceed the limit specified in subdivision (b), on an individual or pooled basis, to repay the principal of, or interest or premium on, any issue of bonds of the authority or any loan made or acquired pursuant to this section. In addition to other purposes set forth in this section, the authority may use moneys in a small business assistance fund to make or acquire loans to participating parties eligible for assistance from those funds. Any moneys repaid or returned to the authority in connection with or as a result of any loan or financial assistance made pursuant to this section shall be deposited in the small business assistance fund from which the loan or assistance was originally provided. The authority may contract with qualified financial institutions, including, but not limited to, banks, investment and mortgage bankers, insurance companies, sureties, and guarantors, to provide any necessary assistance in the granting of credit for these purposes.

(d) Each small business assistance fund established pursuant to this section shall be deposited in a special account which the Controller shall create. Notwithstanding any other provision of law, and subject to any requirements of federal tax law or regulations relative to maintaining the tax-exempt status of the obligations of the authority, all interest or other gains earned by investment or deposit of money in the special account pursuant to any provision of Part 2 (commencing with Section 16300) of Division 4 of Title 2 of the Government Code or pursuant to any other provision of law shall be

credited to, and deposited in, the account.

(e) In carrying out this section, the authority shall participate with the South Coast Air Quality Management District in providing financial assistance in its lending programs.

SEC. 2. Section 44549 of the Health and Safety Code is amended to read:

44549. Any funds of the authority, including proceeds from the sale of bonds or notes issued after the effective date of this section, money set aside for the authority's administrative expenses, and small business assistance funds created under Section 44548, may be invested in any obligations of any state or local government meeting the requirements of subdivision (a) of Section 103 of the Internal Revenue Code of 1954 (26 U.S.C. Sec. 103 (a)) including mutual funds, trusts, and similar instruments representing a pool of obligations. The Treasurer may adopt regulations providing appropriate investment standards for these investments. If the Treasurer determines it to be necessary to assure compliance with federal tax laws or regulations, the authority may, notwithstanding any other provision of law, deposit funds received as fees from the issuance of its obligations, including small business assistance funds, with a bank or trust company acting on behalf of the authority. Notwithstanding any other provision of law, the authority may also make investments of moneys set aside for the authority's administrative expenses or in any small business assistance funds by making or purchasing interest-bearing loans to qualified small businesses which are to be assisted pursuant to Section 44548, or under terms and with such security as the authority determines to be appropriate.

SEC. 3. Section 44552.5 of the Health and Safety Code is amended to read:

44552.5. (a) As an alternative to leasing or selling a project to a participating party, the authority may finance the acquisition, construction, or installation of a project by means of a loan to the participating party. The principal amount of the participating party's obligation as borrower shall be sufficient to provide funds for all the purposes specified in subdivisions (a), (b), and (c) of Section 44551 and may be paid in installments, together with interest on the unpaid balance, or otherwise as may be mutually agreed by the authority and the participating party and set forth in the loan agreement. Loans made pursuant to this section may be secured or unsecured in the discretion of the authority.

(b) The authority may also purchase or acquire from a financial institution part or all of a loan made to a participating party for a project meeting the requirements of this division. In the case of such a purchase, subdivision (a) of Section 44533 shall be deemed to have been complied with if the financial institution in making the loan is participating in a financing program of the authority pursuant to terms and conditions specified by the authority. The authority may by resolution waive the requirement of subdivision (a) of Section

44533 for the purchase of loans of small businesses eligible for assistance pursuant to Section 44548.

(c) Section 44550 shall not apply to projects constructed with moneys loaned pursuant to this section.

CHAPTER 398

An act to validate the organization, boundaries, acts, proceedings, and bonds of public bodies, and to provide limitations of time within which actions may be commenced, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 16, 1991. Filed with Secretary of State September 17, 1991]

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

SECTION 1. This act may be cited as the Second Validating Act of 1991.

SEC. 2. As used in this act:

(a) "Public body" means the state and all departments, agencies, boards, commissions, and authorities of the state. "Public body" also means counties, cities and counties, cities, and all of the following districts, authorities, agencies, boards, commissions, and other entities:

Agencies, boards, commissions, or entities constituted or provided for under or pursuant to Chapter 5 (commencing with Section 6500) of Division 7 of Title 1 of the Government Code.

Air pollution control districts.

Air quality management districts.

Airport districts.

Assessment districts.

Bridge and highway districts.

Bridge, highway, and transportation districts.

California water district distribution districts.

California water district improvement districts.

California water districts.

Cemetery districts.

Citrus pest control districts.

City general improvement district improvement districts.

City general improvement districts.

City maintenance districts.

Community college districts.

Community development commissions.

Community facilities districts.

Community rehabilitation districts.

Community service district improvement districts.

Community service districts.

Conservancy districts.
Cotton pest abatement districts.
County boards of education.
County drainage districts.
County fire protection districts.
County flood control and water districts.
County free library systems.
County maintenance districts.
County power pumping districts.
County sanitation district improvement districts.
County sanitation districts.
County service area improvement areas.
County service areas.
County sewage and water districts.
County water agencies.
County water authorities.
County water district improvement districts.
County water districts.
County waterworks districts.
Crossing guard maintenance districts.
Department of Water Resources and other agencies acting under and pursuant to Part 3 (commencing with Section 11100) of Division 6 of the Water Code.
Drainage districts.
Fire protection districts.
Flood control and water conservation districts.
Flood control districts.
Garbage and refuse disposal districts.
Garbage disposal districts.
Geologic hazard abatement districts.
Harbor districts.
Harbor improvement districts.
Harbor, recreation, and conservation districts.
Highway districts.
Highway interchange districts.
Highway lighting districts.
Horticultural development districts.
Horticultural protection districts.
Housing authorities.
Industrial development authorities.
Integrated financing districts.
Irrigation district distribution districts.
Irrigation district improvement districts.
Irrigation districts.
Joint harbor improvement districts.
Joint highway districts.
Joint municipal sewage disposal districts.
Junior college districts.
Levee districts.

Library districts.
Local agency formation commissions.
Local health districts.
Local hospital districts.
Local transportation authorities.
Los Angeles County Transportation Commission.
Metropolitan transit development boards.
Metropolitan water districts.
Mosquito abatement districts.
Mosquito abatement or vector control districts.
Municipal facilities districts.
Municipal improvement assessment districts.
Municipal improvement district improvement districts.
Municipal improvement districts.
Municipal port districts.
Municipal sewer districts.
Municipal utility districts.
Municipal water district improvement districts.
Municipal water districts of any kind.
Parking authorities.
Parking districts.
Park, recreation, and parkway districts.
Permanent road divisions.
Pest abatement districts.
Police protection districts.
Port districts.
Project areas of redevelopment agencies.
Protection districts.
Public cemetery districts.
Public utility district improvement districts.
Public utility districts.
Rapid transit authorities.
Rapid transit districts.
Reclamation districts.
Recreational harbor districts.
Recreation and park districts.
Recreation, park, and parkway districts.
Redevelopment agencies.
Regional justice facility financing agencies.
Regional open-space districts.
Regional park and open-space districts.
Regional park districts.
Regional planning districts.
Regional transportation commissions.
Resort improvement districts.
Resource conservation districts.
River port districts.
Road districts.
Sanitary agencies.

Sanitary districts.
Sanitary districts annexed areas.
School districts of any kind or class.
Separation of grade districts.
Service authorities for freeway emergencies.
Service zones of fire protection districts.
Sewer maintenance districts.
Special benefit assessment districts of the Southern California Rapid Transit District.
Special community services districts.
Special transit service districts.
Storm water districts.
Transit districts.
Underground utility districts.
Unified air pollution control districts.
Unified port districts.
Urban renewal agencies.
Vehicle parking districts.
Veterans' memorial districts.
Water agencies.
Water authorities.
Water conservation districts.
Water districts.
Water replenishment districts.
Water storage district improvement districts.
Water storage districts.
Weed abatement districts.
Zones of community service districts.
Zones of county service areas.
Zones of county water agencies.
Zones of county water authorities.
Zones of county waterworks districts.
Zones of flood control and water conservation districts.
Zones of flood control districts.

The term "public body" and the plural thereof, as used in this act, shall include only those entities which are specifically enumerated in this section.

(b) "Bonds" means all instruments evidencing an indebtedness of a public body incurred or to be incurred for any public purpose, all leases, installment purchase agreements, or similar agreements in which the obligor is one or more public bodies, all instruments evidencing the borrowing of money in anticipation of taxes, revenues, or other income of such body, all instruments payable from revenues or special funds of such public bodies, all certificates of participation evidencing interests in the leases, installment purchase agreements, or similar agreements, and all instruments funding, refunding, replacing, or amending any thereof or any indebtedness.

(c) "Hereafter" means any time subsequent to the effective date of this act.

(d) "Heretofore" means any time prior to the effective date of this act.

(e) "Now" means the effective date of this act.

SEC. 3. All public bodies heretofore organized or existing under, or under color of, any law are hereby declared to have been legally organized and to be legally functioning as such public body. Every such public body shall have all the rights, powers, and privileges, and be subject to all the duties and obligations, of such a public body regularly formed pursuant to law.

SEC. 4. The boundaries of every public body as heretofore established, defined, or recorded, or as heretofore actually shown on maps or plats used by the assessor, are hereby confirmed, validated, and declared legally established.

SEC. 5. All acts and proceedings heretofore taken by any public body or bodies under any law, or under color of any law, for the annexation or inclusion of territory into any such public body or for the annexation of any such public body to any other such public body or for the withdrawal or exclusion of territory from any such public body or for the consolidation, merger, or dissolution of any public bodies are hereby confirmed, validated, and declared legally effective. This shall include all acts and proceedings of the governing board of any such public body and of any person, public officer, board, or agency heretofore done or taken upon the question of the annexation or inclusion or of the withdrawal or exclusion of such territory or the consolidation, merger, or dissolution of such public bodies.

SEC. 6. All acts and proceedings heretofore taken by or on behalf of any public body under any law, or under color of any law, for, or in connection with, the authorization, issuance, sale, execution, delivery, or exchange of bonds of any such public body for any public purpose are hereby authorized, confirmed, validated, and declared legally effective. This shall include all acts and proceedings of the governing board of such public body and of any person, public officer, board, or agency heretofore done or taken upon the question of the authorization, issuance, sale, execution, delivery, or exchange of such bonds.

All bonds of, or relating to, any public body heretofore issued shall be, in the form and manner in which issued and delivered, the legal, valid, and binding obligations of the public body. All bonds of, or relating to, any public body heretofore awarded and sold to a purchaser and hereafter issued and delivered in accordance with the contract of sale and other proceedings for the award and sale shall be the legal, valid, and binding obligations of the public body. All bonds of, or relating to, any public body heretofore authorized to be issued by ordinance, resolution, order, or other action adopted or taken by or on behalf of the public body and hereafter issued and delivered in accordance with such authorization shall be the legal, valid, and binding obligations of the public body. All bonds of, or relating to, any public body heretofore authorized to be issued at an

election and hereafter issued and delivered in accordance with such authorization shall be the legal, valid, and binding obligations of the public body. Whenever an election has heretofore been called for the purpose of submitting to the voters of any public body the question of issuing bonds for any public purpose, such bonds, if hereafter authorized by the required vote and in accordance with the proceedings heretofore taken, and issued and delivered in accordance with such authorization, shall be the legal, valid, and binding obligations of the public body.

SEC. 7. (a) This act shall operate to supply such legislative authorization as may be necessary to authorize, confirm, and validate any such acts and proceedings heretofore taken which the Legislature could have supplied or provided for in the law under which such acts or proceedings were taken.

(b) This act shall be limited to the validation of acts and proceedings to the extent to which the same can be effectuated under the State and Federal Constitutions.

(c) This act shall not operate to authorize, confirm, validate, or legalize any act, proceeding, or other matter the legality of which is being contested or inquired into in any legal proceeding now pending and undetermined or which is pending and undetermined during the period of 30 days from and after the effective date of this act, and shall not operate to authorize, confirm, validate, or legalize any act, proceeding, or other matter which has heretofore been determined in any legal proceeding to be illegal, void, or ineffective.

(d) This act shall not operate to authorize, confirm, validate, or legalize a contract between any public body and the United States.

SEC. 8. Any action or proceeding contesting the validity of any action or proceeding heretofore taken under any law, or under color of any law, for the formation, organization, or incorporation of any public body, or for any annexation thereto, exclusion therefrom, or other change of boundaries thereof, or for the consolidation, merger, or dissolution of any public bodies, or for, or in connection with, the authorization, issuance, sale, execution, delivery, or exchange of bonds thereof upon any ground involving any alleged defect or illegality not effectively validated by the prior provisions of this act and not otherwise barred by any statute of limitations or by laches shall be commenced within six months of the effective date of this act; otherwise each and all of such matters shall be held to be valid and in every respect legal and incontestable. This act shall not extend the period in which any action may be brought beyond the period in which it would be barred by any presently existing valid statute of limitations.

SEC. 9. Nothing contained in this act shall be construed to render the creation of any city or district, or any change in the boundaries of any city or district, effective for purposes of assessment or taxation unless the statement, together with the map or plat, required to be filed under Sections 54900 to 54904, inclusive, of the Government Code, is filed within the time and substantially in the manner

required by those sections.

SEC. 10. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

To validate the organization, boundaries, acts, proceedings, and bonds of public bodies as soon as possible, it is necessary that this act take immediate effect.

CHAPTER 399

An act to validate the organization, boundaries, acts, proceedings, and bonds of public bodies, and to provide limitations of time within which actions may be commenced.

[Approved by Governor September 16, 1991. Filed with Secretary of State September 17, 1991.]

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

SECTION 1. This act may be cited as the Third Validating Act of 1991.

SEC. 2. As used in this act:

(a) "Public body" means the state and all departments, agencies, boards, commissions, and authorities of the state. "Public body" also means counties, cities and counties, cities, and all of the following districts, authorities, agencies, boards, commissions, and other entities:

Agencies, boards, commissions, or entities constituted or provided for under or pursuant to Chapter 5 (commencing with Section 6500) of Division 7 of Title 1 of the Government Code.

Air pollution control districts.

Air quality management districts.

Airport districts.

Assessment districts.

Bridge and highway districts.

Bridge, highway, and transportation districts.

California water district distribution districts.

California water district improvement districts.

California water districts.

Cemetery districts.

Citrus pest control districts.

City general improvement district improvement districts.

City general improvement districts.

City maintenance districts.

Community college districts.

Community development commissions.

Community facilities districts.

Community rehabilitation districts.
Community service district improvement districts.
Community service districts.
Conservancy districts.
Cotton pest abatement districts.
County boards of education.
County drainage districts.
County fire protection districts.
County flood control and water districts.
County free library systems.
County maintenance districts.
County power pumping districts.
County sanitation district improvement districts.
County sanitation districts.
County service area improvement areas.
County service areas.
County sewage and water districts.
County water agencies.
County water authorities.
County water district improvement districts.
County water districts.
County waterworks districts.
Crossing guard maintenance districts.
Department of Water Resources and other agencies acting under and pursuant to Part 3 (commencing with Section 11100) of Division 6 of the Water Code.
Drainage districts.
Fire protection districts.
Flood control and water conservation districts.
Flood control districts.
Garbage and refuse disposal districts.
Garbage disposal districts.
Geologic hazard abatement districts.
Harbor districts.
Harbor improvement districts.
Harbor, recreation, and conservation districts.
Highway districts.
Highway interchange districts.
Highway lighting districts.
Horticultural development districts.
Horticultural protection districts.
Housing authorities.
Industrial development authorities.
Integrated financing districts.
Irrigation district distribution districts.
Irrigation district improvement districts.
Irrigation districts.
Joint harbor improvement districts.
Joint highway districts.

Joint municipal sewage disposal districts.
Junior college districts.
Levee districts.
Library districts.
Local agency formation commissions.
Local health districts.
Local hospital districts.
Local transportation authorities.
Los Angeles County Transportation Commission.
Metropolitan transit development boards.
Metropolitan water districts.
Mosquito abatement districts.
Mosquito abatement or vector control districts.
Municipal facilities districts.
Municipal improvement assessment districts.
Municipal improvement district improvement districts.
Municipal improvement districts.
Municipal port districts.
Municipal sewer districts.
Municipal utility districts.
Municipal water district improvement districts.
Municipal water districts of any kind.
Parking authorities.
Parking districts.
Park, recreation, and parkway districts.
Permanent road divisions.
Pest abatement districts.
Police protection districts.
Port districts.
Project areas of redevelopment agencies.
Protection districts.
Public cemetery districts.
Public utility district improvement districts.
Public utility districts.
Rapid transit authorities.
Rapid transit districts.
Reclamation districts.
Recreational harbor districts.
Recreation and park districts.
Recreation, park, and parkway districts.
Redevelopment agencies.
Regional justice facility financing agencies.
Regional open-space districts.
Regional park and open-space districts.
Regional park districts.
Regional planning districts.
Regional transportation commissions.
Resort improvement districts.
Resource conservation districts.

River port districts.
Road districts.
Sanitary agencies.
Sanitary districts.
Sanitary districts annexed areas.
School districts of any kind or class.
Separation of grade districts.
Service authorities for freeway emergencies.
Service zones of fire protection districts.
Sewer maintenance districts.
Special benefit assessment districts of the Southern California Rapid Transit District.
Special community services districts.
Special transit service districts.
Storm water districts.
Transit districts.
Underground utility districts.
Unified air pollution control districts.
Unified port districts.
Urban renewal agencies.
Vehicle parking districts.
Veterans' memorial districts.
Water agencies.
Water authorities.
Water conservation districts.
Water districts.
Water replenishment districts.
Water storage district improvement districts.
Water storage districts.
Weed abatement districts.
Zones of community service districts.
Zones of county service areas.
Zones of county water agencies.
Zones of county water authorities.
Zones of county waterworks districts.
Zones of flood control and water conservation districts.
Zones of flood control districts.

The term "public body" and the plural thereof, as used in this act, shall include only those entities which are specifically enumerated in this section.

(b) "Bonds" means all instruments evidencing an indebtedness of a public body incurred or to be incurred for any public purpose, all leases, installment purchase agreements, or similar agreements in which the obligor is one or more public bodies, all instruments evidencing the borrowing of money in anticipation of taxes, revenues, or other income of such body, all instruments payable from revenues or special funds of such public bodies, all certificates of participation evidencing interests in the leases or, installment purchase agreements, or similar agreements, and all instruments

funding, refunding, replacing, or amending any thereof or any indebtedness.

(c) "Hereafter" means any time subsequent to the effective date of this act.

(d) "Heretofore" means any time prior to the effective date of this act.

(e) "Now" means the effective date of this act.

SEC. 3. All public bodies heretofore organized or existing under, or under color of, any law are hereby declared to have been legally organized and to be legally functioning as such public body. Every such public body shall have all the rights, powers, and privileges, and be subject to all the duties and obligations, of such a public body regularly formed pursuant to law.

SEC. 4. The boundaries of every public body as heretofore established, defined, or recorded, or as heretofore actually shown on maps or plats used by the assessor, are hereby confirmed, validated, and declared legally established.

SEC. 5. All acts and proceedings heretofore taken by any public body or bodies under any law, or under color of any law, for the annexation or inclusion of territory into any such public body or for the annexation of any such public body to any other such public body or for the withdrawal or exclusion of territory from any such public body or for the consolidation, merger, or dissolution of any public bodies are hereby confirmed, validated, and declared legally effective. This shall include all acts and proceedings of the governing board of any such public body and of any person, public officer, board, or agency heretofore done or taken upon the question of the annexation or inclusion or of the withdrawal or exclusion of such territory or the consolidation, merger, or dissolution of such public bodies.

SEC. 6. All acts and proceedings heretofore taken by or on behalf of any public body under any law, or under color of any law, for, or in connection with, the authorization, issuance, sale, execution, delivery, or exchange of bonds of any such public body for any public purpose are hereby authorized, confirmed, validated, and declared legally effective. This shall include all acts and proceedings of the governing board of such public body and of any person, public officer, board, or agency heretofore done or taken upon the question of the authorization, issuance, sale, execution, delivery, or exchange of such bonds.

All bonds of, or relating to, any public body heretofore issued shall be, in the form and manner in which issued and delivered, the legal, valid, and binding obligations of the public body. All bonds of, or relating to, any public body heretofore awarded and sold to a purchaser and hereafter issued and delivered in accordance with the contract of sale and other proceedings for the award and sale shall be the legal, valid, and binding obligations of the public body. All bonds of, or relating to, any public body heretofore authorized to be issued by ordinance, resolution, order, or other action adopted or

taken by or on behalf of the public body and hereafter issued and delivered in accordance with such authorization shall be the legal, valid, and binding obligations of the public body. All bonds of, or relating to, any public body heretofore authorized to be issued at an election and hereafter issued and delivered in accordance with such authorization shall be the legal, valid, and binding obligations of the public body. Whenever an election has heretofore been called for the purpose of submitting to the voters of any public body the question of issuing bonds for any public purpose, such bonds, if hereafter authorized by the required vote and in accordance with the proceedings heretofore taken, and issued and delivered in accordance with such authorization, shall be the legal, valid, and binding obligations of the public body.

SEC. 7. (a) This act shall operate to supply such legislative authorization as may be necessary to authorize, confirm, and validate any such acts and proceedings heretofore taken which the Legislature could have supplied or provided for in the law under which such acts or proceedings were taken.

(b) This act shall be limited to the validation of acts and proceedings to the extent to which the same can be effectuated under the State and Federal Constitutions.

(c) This act shall not operate to authorize, confirm, validate, or legalize any act, proceeding, or other matter the legality of which is being contested or inquired into in any legal proceeding now pending and undetermined or which is pending and undetermined during the period of 30 days from and after the effective date of this act, and shall not operate to authorize, confirm, validate, or legalize any act, proceeding, or other matter which has heretofore been determined in any legal proceeding to be illegal, void, or ineffective.

(d) This act shall not operate to authorize, confirm, validate, or legalize a contract between any public body and the United States.

SEC. 8. Any action or proceeding contesting the validity of any action or proceeding heretofore taken under any law, or under color of any law, for the formation, organization, or incorporation of any public body, or for any annexation thereto, exclusion therefrom, or other change of boundaries thereof, or for the consolidation, merger, or dissolution of any public bodies, or for, or in connection with, the authorization, issuance, sale, execution, delivery, or exchange of bonds thereof upon any ground involving any alleged defect or illegality not effectively validated by the prior provisions of this act and not otherwise barred by any statute of limitations or by laches shall be commenced within six months of the effective date of this act; otherwise each and all of such matters shall be held to be valid and in every respect legal and incontestable. This act shall not extend the period in which any action may be brought beyond the period in which it would be barred by any presently existing valid statute of limitations.

SEC. 9. Nothing contained in this act shall be construed to render the creation of any city or district, or any change in the boundaries

of any city or district, effective for purposes of assessment or taxation unless the statement, together with the map or plat, required to be filed under Sections 54900 to 54904, inclusive, of the Government Code, is filed within the time and substantially in the manner required by those sections.

CHAPTER 400

An act to amend Sections 277 and 1387 of the Penal Code, relating to crimes.

[Approved by Governor September 16, 1991. Filed with Secretary of State September 17, 1991.]

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

SECTION 1. Section 277 of the Penal Code is amended to read:

277. In the absence of a court order determining rights of custody or visitation to a minor child, every person having a right of custody of the child who maliciously takes, detains, conceals, or entices away that child within or without the state, without good cause, and with the intent to deprive the custody right of another person or a public agency also having a custody right to that child, shall be punished by imprisonment in the county jail for a period of not more than one year, a fine of one thousand dollars ($1,000), or both, or by imprisonment in the state prison for 16 months, or two or three years, a fine of not more than ten thousand dollars ($10,000), or both.

A subsequently obtained court order for custody or visitation shall not affect the application of this section.

As used in this section, "good cause" means a good faith and reasonable belief that the taking, detaining, concealing, or enticing away of the child is necessary to protect the child from immediate bodily injury or emotional harm. "Good cause" also includes the good faith and reasonable belief by a person with a right of custody of the child who has been the victim of domestic violence by another person with a right of custody of the child, that the child, if left with the other person, will suffer immediate bodily injury or emotional harm. The person who takes, detains, or conceals the child shall file a report with the district attorney's office of his or her action, and shall file a request for custody, within a reasonable time in the jurisdiction where the child had been living, setting forth the basis for the immediate bodily injury or emotional harm to the child. The address of the parent, or a person who has been granted access to the minor child by a court order, who takes, detains, or conceals the child, with good cause, shall remain confidential until released by court order.

As used in this section:

(a) "Domestic violence" means abuse perpetrated against any of

the following persons:

(1) A spouse, former spouse, cohabitant, former cohabitant, any other adult person related by consanguinity or affinity within the second degree, or a person with whom the respondent has had a dating or engagement relationship.

(2) A person who is the parent of a child and the presumption applies that the male parent is the father of any child of the female parent pursuant to the Uniform Parentage Act (Part 7 (commencing with Section 7000) of Division 4 of the Civil Code).

(b) "Emotional harm" includes having a parent who has committed domestic violence against the parent who is taking and concealing the child.

SEC. 2. Section 1387 of the Penal Code is amended to read:

1387. (a) An order terminating an action pursuant to this chapter, or Section 859b, 861, 871, or 995, is a bar to any other prosecution for the same offense if it is a felony or if it is a misdemeanor charged together with a felony and the action has been previously terminated pursuant to this chapter, or Section 859b, 861, 871, or 995, or if it is a misdemeanor not charged together with a felony, except in those felony cases, or those cases where a misdemeanor is charged with a felony, where subsequent to the dismissal of the felony or misdemeanor the judge or magistrate finds any of the following:

(1) That substantial new evidence has been discovered by the prosecution which would not have been known through the exercise of due diligence at, or prior to, the time of termination of the action.

(2) That the termination of the action was the result of the direct intimidation of a material witness, as shown by a preponderance of the evidence.

(3) That the termination of the action was the result of the failure to appear by the complaining witness, who had been personally subpoenaed in a prosecution arising under subdivision (e) of Section 243 or Section 262, 273.5, or 273.6. This paragraph shall apply only within six months of the original dismissal of the action, and may be invoked only once in each action. Nothing in this section shall preclude a defendant from being eligible for diversion.

(b) An order terminating an action is not a bar to prosecution if a complaint is dismissed before the commencement of a preliminary hearing in favor of an indictment filed pursuant to Section 944 and the indictment is based upon the same subject matter as charged in the dismissed complaint, information, or indictment.

However, if the previous termination was pursuant to Section 859b, 861, 871, or 995, the subsequent order terminating an action is not a bar to prosecution if:

(1) Good cause is shown why the preliminary examination was not held within 60 days from the date of arraignment or plea.

(2) The motion pursuant to Section 995 was granted because of any of the following reasons:

(A) Present insanity of the defendant.

(B) A lack of counsel after the defendant elected to represent himself or herself rather than being represented by appointed counsel.

(C) Ineffective assistance of counsel.

(D) Conflict of interest of defense counsel.

(E) Violation of time deadlines based upon unavailability of defense counsel.

(F) Defendant's motion to withdraw a waiver of the preliminary examination.

(3) The motion pursuant to Section 995 was granted after dismissal by the magistrate of the action pursuant to Section 871 and was recharged pursuant to Section 739.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 401

An act to add Article 8.5 (commencing with Section 19580) to Chapter 4 of Division 8 of the Business and Professions Code, relating to horseracing.

[Approved by Governor September 16, 1991. Filed with Secretary of State September 17, 1991.]

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

SECTION 1. Article 8.5 (commencing with Section 19580) is added to Chapter 4 of Division 8 of the Business and Professions Code, to read:

Article 8.5. Equine Medication

19580. (a) The board shall adopt regulations to establish policies, guidelines, and penalties relating to equine medication in order to preserve and enhance the integrity of horseracing in the state. Those policies, guidelines, and penalties shall include, at a minimum, the provisions set forth in this article.

(b) It is the intent of the Legislature that the board, in its testing efforts to determine illegal or excessive use of substances, recognize the greater importance of conducting complete and thorough

testing of a lesser number of samples in preference to conducting less thorough testing on a greater number of samples.

19581. No substance of any kind shall be administered by any means to a horse after it has been entered to race in a horserace , unless the board has, by regulation, specifically authorized the use of the substance and the quantity and composition thereof. The board may require that the official veterinarian approve, in writing, the administration of those substances in accordance with the regulations of the board.

19582. A first violation of Section 19581 is punishable by a civil penalty of not less than one thousand dollars ($1,000) or more than ten thousand dollars ($10,000). For any second or subsequent violation of Section 19581, the board shall convene a hearing to determine whether to revoke the license of a person who violates that section.

The penalties provided by this section are in addition to any other civil, criminal, and administrative penalties or sanctions provided by law, and do not supplant, but are cumulative to, other penalties or sanctions.

CHAPTER 402

An act to amend Sections 6596 and 7087 of the Revenue and Taxation Code, relating to taxation.

[Approved by Governor September 16, 1991. Filed with Secretary of State September 17, 1991.]

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

SECTION 1. Section 6596 of the Revenue and Taxation Code is amended to read:

6596. (a) If the board finds that a person's failure to make a timely return or payment is due to the person's reasonable reliance on written advice from the board, the person may be relieved of the taxes imposed by Sections 6051 and 6201 and any penalty or interest added thereto.

(b) For the purpose of this section, a person's failure to make a timely return or payment shall be considered to be due to reasonable reliance on written advice from the board, only if the board finds that all of the following conditions are satisfied:

(1) The person requested in writing that the board advise him or her whether a particular activity or transaction is subject to tax under this part. The specific facts and circumstances of the activity or transaction shall be fully described in the request.

(2) The board responded in writing to the person regarding the written request for advice, stating whether or not the described activity or transaction is subject to tax, or stating the conditions under

which the activity or transaction is subject to tax.

(3) In reasonable reliance on the board's written advice, the person did not do either of the following:

(A) Charge or collect from his or her customers amounts designated as sales tax reimbursement or use tax for the described activity or transaction.

(B) Pay a use tax on the storage, use, or other consumption in this state of tangible personal property.

(4) The liability for taxes applied to a particular activity or transaction which occurred before either of the following:

(A) Before the board rescinded or modified the advice so given, by sending written notice to the person of the rescinded or modified advice.

(B) Before a change in statutory or constitutional law, a change in the board's regulations, or a final decision of a court, which renders the board's earlier written advice no longer valid.

(c) Any person seeking relief under this section shall file with the board:

(1) A copy of the person's written request to the board and a copy of the board's written advice.

(2) A statement under penalty of perjury setting forth the facts on which the claim for relief is based.

(3) Any other information which the board may require.

(d) Only the person making the written request shall be entitled to rely on the board's written advice to that person.

SEC. 2. Section 7087 of the Revenue and Taxation Code is amended to read:

7087. (a) The total amount of revenue collected or assessed pursuant to this part shall not be used for any of the following:

(1) To evaluate individual officers or employees.

(2) To impose or suggest revenue quotas or goals, other than quotas or goals with respect to accounts receivable.

(b) The board shall certify in its annual report submitted pursuant to Section 15616 of the Government Code that revenue collected or assessed is not used in a manner prohibited by subdivision (a).

(c) Nothing in this section shall prohibit the setting of goals and the evaluation of performance with respect to productivity and the efficient use of time.

CHAPTER 403

An act to amend Section 84305.5 of the Government Code, relating to the Political Reform Act of 1974.

[Approved by Governor September 16, 1991. Filed with Secretary of State September 17, 1991.]

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

SECTION 1. Section 84305.5 of the Government Code is amended to read:

84305.5. (a) No slate mailer organization shall send a slate mailer unless:

(1) The name, street address, and city of the slate mailer organization are shown on the outside of each piece of slate mail and on at least one of the inserts included with each piece of slate mail in no less than 8-point roman type which shall be in a color or print which contrasts with the background so as to be easily legible. A post office box may be stated in lieu of a street address if the organization's street address is a matter of public record with the Secretary of State's Political Reform Division.

(2) At the top or bottom of the front side or surface of at least one insert or at the top or bottom of one side or surface of a postcard or other self-mailer, there is a notice in at least 8-point roman boldface type, which shall be in a color or print which contrasts with the background so as to be easily legible, and in a printed or drawn box and set apart from any other printed matter. The notice shall consist of the following statement:

> NOTICE TO VOTERS
>
> THIS DOCUMENT WAS PREPARED BY (name of slate mailer organization), NOT AN OFFICIAL POLITICAL PARTY ORGANIZATION. Appearance in this mailer does not necessarily imply endorsement of others in this mailer. Appearance is paid for and authorized by each candidate and ballot measure which is designated by an *.

(3) The name, street address, and city of the slate mailer organization as required by paragraph (1) and the notice required by paragraph (2) may appear on the same side or surface of an insert.

(4) Each candidate and each ballot measure which has paid to appear in the slate mailer is designated by an *. Any candidate or ballot measure which has not paid to appear in the slate mailer is not designated by an *.

The * required by this subdivision shall be of the same type size, type style, color or contrast, and legibility as is used for the name of the candidate or the ballot measure name or number and position advocated to which the * designation applies except that in no case shall the * be required to be larger than 10-point boldface type. The designation shall immediately follow the name of the candidate, or the name or number and position advocated on the ballot measure where the designation appears in the slate of candidates and measures. If there is no slate listing, the designation shall appear at least once in at least 8-point boldface type, immediately following the name of the candidate, or the name or number and position advocated on the ballot measure.

(5) The name of any candidate appearing in the slate mailer who is a member of a political party differing from the political party which the mailer appears by representation or indicia to represent is accompanied, immediately below the name, by the party designation of the candidate, in no less than 9-point roman type which shall be in a color or print which contrasts with the background so as to be easily legible. The designation shall not be required in the case of candidates for nonpartisan office.

(b) For purposes of the designations required by paragraph (4) of subdivision (a), the payment of any sum made reportable by the provisions of subdivision (c) of Section 84219 by or at the behest of a candidate or committee, whose name or position appears in the mailer, to the slate mailer organization, shall constitute a payment to appear, requiring the * designation. Such payment shall also be deemed to constitute authorization to appear in the mailer.

(c) A slate mailer which complies with the requirements of this section shall be deemed to satisfy the requirements of Sections 11703 and 11704 of the Elections Code.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

SEC. 3. The Legislature finds and declares that the provisions of this act further the purposes of the Political Reform Act of 1974 within the meaning of subdivision (a) of Section 81012 of the Government Code.

CHAPTER 404

An act to amend Section 20009.1 of, and to add Section 20009.13 to, the Government Code, relating to the Public Employees' Retirement System.

[Approved by Governor September 16, 1991. Filed with Secretary of State September 17, 1991.]

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

SECTION 1. Section 20009.1 of the Government Code is amended to read:

20009.1. "Public agency" also includes the following:

(a) The Commandant, Veterans Home of California, with respect to employees of the post exchange and other post fund activities whose compensation is paid from the post fund of the Veterans Home of California.

(b) Any auxiliary organization operating pursuant to Chapter 7 (commencing with Section 89900) of Part 55 of the Education Code and in conformity with regulations adopted by the Trustees of the California State University and any auxiliary organization operating pursuant to Article 6 (commencing with Section 72670) of Chapter 6 of Part 45 of the Education Code and in conformity with regulations adopted by the Board of Governors of the California Community Colleges.

(c) Any student body or nonprofit organization composed exclusively of students of the California State University or community college or of members of the faculty of the California State University or community college, or both, and established for the purpose of providing essential activities related to, but not normally included as a part of, the regular instructional program of the California State University or community college.

(d) A state organization of governing boards of school districts, the primary purpose of which is the advancing of public education through research and investigation.

(e) Any nonprofit corporation whose membership is confined to public agencies as defined in Section 20009.

(f) A section of the California Interscholastic Federation.

(g) Any credit union incorporated under Division 5 (commencing with Section 14000) of the Financial Code, or incorporated pursuant to federal law, with 95 percent of its membership limited to employees who are members of or retired members of the Public Employees' Retirement System or the State Teachers' Retirement System, and their immediate families, and employees of any such credit union. For the purposes of this subdivision, "immediate family" means those persons related by blood or marriage who reside in the household of a member of the credit union who is a member of or retired member of the Public

Employees' Retirement System or the State Teachers' Retirement System. The credit union shall pay any costs that are in addition to the normal charges required to enter into a contract with the board. All such payments made by the credit union which are in addition to the normal charges required shall be added to the total amount appropriated by the Budget Act for the administrative expense of the system. For purposes of this subdivision, a credit union shall not be deemed to be a public agency unless it has entered into a contract with the board pursuant to Chapter 4 (commencing with Section 20450) of this part prior to January 1, 1988. After January 1, 1988, the board shall not enter into a contract with any credit union as a public agency.

(h) Any county superintendent of schools which was a contracting agency on July 1, 1983, and any school district or community college district which was a contracting agency with respect to local policemen, as defined in Section 20020.8, on July 1, 1983.

(i) Any school district or community college district which has established a police department, pursuant to Section 39670 or 72330 of the Education Code, and has entered into a contract with the board on or after January 1, 1990, for school safety members, as defined in Section 20019.6.

SEC. 2. Section 20009.13 is added to the Government Code, to read:

20009.13. A nonprofit corporation or association conducting an agricultural fair pursuant to Section 25905 may enter into a contract with the board for the participation of its employees as members of the system, upon obtaining a written advisory opinion from the United States Department of Labor that the participation of the officers and employees of the nonprofit corporation or association in the system would not affect the system exemption as a governmental plan under the federal Employee Retirement Income Security Act of 1974. The nonprofit corporation or association shall be deemed a "public agency" only for that purpose.

CHAPTER 405

An act to amend Section 4670 of, and to add Sections 4671 and 4672 to, the Public Utilities Code, relating to for-hire vessels.

[Approved by Governor September 16, 1991 Filed with Secretary of State September 17, 1991.]

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

SECTION 1. Section 4670 of the Public Utilities Code is amended to read:

4670. Following an administrative hearing, the commission may impose a penalty of not less than fifty dollars ($50) nor more than one

thousand dollars ($1,000) upon any for-hire vessel owner or operator who violates any provision of this article or who fails to obey, observe, or comply with any rule established by the commission pursuant to Section 4668. For purposes of this section, Section 4671, and Section 4672, "owner" means the corporation or person who is registered as the owner of the vessel or who has a legal right to operate the vessel pursuant to a lease or rental agreement. For purposes of this section, Section 4671, and Section 4672, "operator" means the "for-hire vessel operator" as defined in Section 4660.

SEC. 2. Section 4671 is added to the Public Utilities Code, to read:

4671. (a) Upon filing of the evidence of liability protection pursuant to Section 4663, the commission shall provide a certificate of filing to the for-hire vessel owner or operator. The certificate shall be no larger than 8½ by 11 inches in size. The for-hire vessel owner or operator shall post the certificate of filing on the vessel in a prominent location which is visible to the passengers.

(b) No certificate that has been canceled, suspended, or revoked, or that is not valid shall be posted on a vessel.

SEC. 3. Section 4672 is added to the Public Utilities Code, to read:

4672. Upon receiving notification of impending cancellation of liability protection pertaining to a for-hire vessel owner or operator, the commission shall, effective upon the date of the cancellation, revoke the certificate provided to the owner or operator pursuant to Section 4671 and shall notify the owner or operator of this revocation. The owner or operator shall return the revoked certificate to the commission.

CHAPTER 406

An act to amend Section 1717.5 of the Civil Code, relating to contracts.

[Approved by Governor September 16, 1991. Filed with Secretary of State September 17, 1991.]

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

SECTION 1. Section 1717.5 of the Civil Code is amended to read:

1717.5. Except as otherwise provided by law or where waived by the parties to an agreement, in any action on a contract based on a book account, as defined in Section 337a of the Code of Civil Procedure, entered into on or after January 1, 1987, which does not provide for attorney's fees and costs as provided in Section 1717, the party who is determined to be the party prevailing on the contract shall be entitled to reasonable attorney's fees in addition to other costs.

Reasonable attorney's fees awarded pursuant to this section shall be fixed by the court in an amount that shall not exceed the lesser

of six hundred sixty dollars ($660) or 25 percent of the principal obligation owing under the contract. If a party is found to have no obligation owing on a book account, the court shall award that party reasonable attorney's fees not to exceed six hundred sixty dollars ($660). These attorney's fees shall be an element of the costs of the suit.

If there is a written agreement between the parties signed by the person to be charged, the fees provided by this section shall not be imposed unless that agreement contains a statement that the prevailing party in any action between the parties is entitled to the fees provided by this section.

This section does not apply to any action in which an insurance company is a party, nor shall an insurance company, surety, or guarantor be liable under this section, in the absence of a specific contractual provision, for the attorney's fees and costs awarded a prevailing party against its insured.

This section does not apply to any action in which a bank, a savings association, a federal association, or a state or federal credit union, or a subsidiary, affiliate, or holding company of any of those entities, is a party.

CHAPTER 407

An act to add Section 110 to, and to add Chapter 8 (commencing with Section 500) to Division 1 of, the Water Code, relating to water service.

[Approved by Governor September 16, 1991. Filed with Secretary of State September 17, 1991.]

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

SECTION 1. Section 110 is added to the Water Code, to read:

110. (a) Notwithstanding any other provision of law, every water purveyor who sells, leases, rents, furnishes, or delivers water service to any person shall require, as a condition of new water service on and after January 1, 1992, that a suitable water meter to measure the water service shall be installed on the water service facilities in accordance with Chapter 8 (commencing with Section 500). The cost of installation of the meter shall be paid by the user of the water, and any water purveyor may impose and collect charges for those costs.

(b) For purposes of subdivision (a), "water purveyor," "person," "water service," and "water meter" have the same meaning as defined in Article 2 (commencing with Section 510) of Chapter 8.

(c) Subdivision (a) applies only to potable water.

(d) Subdivision (a) does not apply to a community water system which serves less than 15 service connections used by yearlong

residents or regularly serves less than 25 yearlong residents, or a single well which services the water supply of a single family residential home.

SEC. 2. Chapter 8 (commencing with Section 500) is added to Division 1 of the Water Code, to read:

CHAPTER 8. WATER MEASUREMENT

Article 1. Short Title

500. This chapter shall be known and may be cited as the Water Measurement Law.

Article 2. Definitions

510. Unless the context otherwise requires, the provisions of this article govern the construction of this chapter.

511. The definition of a word applies to any of its variants.

512. "Water purveyor" means any person who furnishes water service to another person.

513. "Person" means any individual, firm, association, partnership, corporation, or public entity of any kind.

514. "Public entity" includes a city, county, city and county, whether general law or chartered, a district, board, commission, bureau, authority, agency, department, division, section, any other political subdivision of the state of any kind, or the state.

515. "Water service" means the sale, lease, rental, furnishing, or delivery of water for beneficial use, and includes, but is not limited to, contracting for that sale, lease, rental, furnishing, or delivery of water, except bottled water.

516. "Water meter" includes any suitable water measuring device or facility which measures or determines the volumetric flow of water.

Article 3. Declaration of Policy

520. The Legislature hereby finds and declares that, pursuant to the primary interest of the people of the state to put the limited available supplies of water in this state to beneficial use to the fullest extent of which they are capable, and to prevent waste, unreasonable use, or unreasonable method of use, it is necessary to determine the quantities of water in use throughout the state to the maximum extent that is reasonable to do so.

521. The Legislature further finds and declares that water furnished or used without any method of determination of the quantities of water used by the person to whom the water is furnished has caused, and will continue to cause, waste and unreasonable use of water, and that this waste and unreasonable use should be identified, isolated, and eliminated.

522. The Legislature further finds and declares that waste or unreasonable use of water imposes unnecessary and wasteful consumption of energy to deliver or furnish the water, and it is necessary, therefore, to determine the quantities of water in use throughout the state to the maximum extent that it is reasonable to do so in order to reduce that energy consumption.

523. The Legislature hereby finds and declares that the California goal for measurement of water use is the achievement by January 1, 1992, of the installation of water meters on all new water service connections after that date to systems and facilities owned, operated, or under the management or control of a water purveyor, which meters will measure the quantity of water furnished or delivered through each system or facility to each new user of the water.

Article 4. Standards

530. Domestic cold water meters shall be in compliance with relevant standards of the American Water Works Association and shall be of the type approved by the Director of Food and Agriculture pursuant to Section 12500.5 of the Business and Professions Code.

CHAPTER 408

An act to amend Section 4715 of the Public Resources Code, relating to forests.

[Approved by Governor September 16, 1991. Filed with Secretary of State September 17, 1991]

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

SECTION 1. Section 4715 of the Public Resources Code is amended to read:

4715. The department, in accordance with policy established by the board, may enter into agreements with any owner and with any agency of government, including the federal government, for the purpose of controlling or eradicating forest insects or plant diseases damaging or threatening destruction to timber or forest growth, and it may make expenditures for that purpose.

CHAPTER 409

An act to amend Sections 1909, 35565, 39670, and 72330 of the Education Code, relating to education.

[Approved by Governor September 16, 1991. Filed with Secretary of State September 17, 1991.]

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

SECTION 1. Section 1909 of the Education Code is amended to read:

1909. From funds appropriated for allocation pursuant to Sections 2558 and 41841.5, for each county superintendent of schools who maintained schools or classes for prisoners in the 1981–82 fiscal year pursuant to Section 1906, and who continues to maintain those schools or classes in each fiscal year thereafter, the Superintendent of Public Instruction shall allow in the 1982–83 fiscal year and each fiscal year thereafter, an amount equal to the actual current expenses of the programs, but not to exceed an amount determined as follows:

(a) Compute the prior year statewide average revenue limit per unit of average daily attendance for adults, increased by the amount specified in Section 52616 for the current fiscal year.

(b) Multiply the amount computed in paragraph (1) by the average daily attendance of the schools or classes in the current fiscal year.

(c) Multiply the product determined in subdivision (b) for each fiscal year by 0.8.

SEC. 2. Section 35565 of the Education Code is amended to read:

35565. If a dispute arises between the governing boards of the districts concerning the division of funds, property, or obligations, a board of arbitrators shall be appointed which shall resolve the dispute. The board shall consist of one person selected by each district from which territory is withdrawn pursuant to a reorganization action under this chapter, one person selected by each district of which territory has become a part pursuant to that reorganization action, and either one or two persons, such that the board of arbitrators contains an odd number of persons, appointed by the county superintendent of schools of the county in which the districts are located. The districts involved may mutually agree that a person appointed as arbitrator by the county superintendent of schools may act as sole arbitrator of the matters to be submitted to arbitration. The necessary expenses and compensation of the arbitrators shall be divided equally between the districts, and the payment of the portion of the expenses is a legal charge against the funds of the school districts. The arbitrator or arbitrators shall make a written finding on the matter submitted to arbitration. The written finding and determination of a majority of the board of arbitrators is final and binding upon the school districts submitting the question

to the board of arbitration.

SEC. 3. Section 39670 of the Education Code is amended to read:

39670. (a) The governing board of any school district may establish a security department under the supervision of a chief of security or a police department under the supervision of a chief of police, as designated by, and under the direction of, the superintendent of the school district and, in accordance with Chapter 5 (commencing with Section 45100) of Part 25, may employ personnel as necessary to ensure the safety of school district personnel and pupils and the security of the real and personal property of the school district. It is the intention of the Legislature in enacting this section that a school district police or security department shall be supplementary to city and county law enforcement agencies and shall under no circumstances be vested with general police powers.

(b) The governing board of a school district that establishes a security department or a police department shall set minimum qualifications of employment for the chief of security or chief of police, respectively, including, but not limited to, prior employment as a peace officer or completion of any peace officer training course approved by the Commission on Peace Officer Standards and Training. A chief of security or chief of police shall be required to comply with the prior employment or training requirement set forth in this subdivision as of January 1, 1993, or a date one year subsequent to the initial employment of the chief of security or chief of police by the school district, whichever occurs later. This subdivision shall not be construed to require the employment by a school district of any additional personnel.

SEC. 4. Section 72330 of the Education Code is amended to read:

72330. (a) The governing board of a community college district may establish a community college police department under the supervision of a community college chief of police and, in accordance with Chapter 4 (commencing with Section 88000) of Part 51, may employ personnel as necessary to enforce the law on or near the campus of the community college and on or near other grounds or properties owned, operated, controlled, or administered by the community college or by the state acting on behalf of the community college. Each campus of a multicampus community college district may designate a chief of police.

(b) Persons employed and compensated as members of a community college police department, when so appointed and duly sworn, are peace officers as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code.

(c) The governing board of a community college district that establishes a community college police department shall set minimum qualifications of employment for the community college chief of police, including, but not limited to, prior employment as a peace officer or completion of any peace officer training course approved by the Commission on Peace Officer Standards and

Training. A chief of security or chief of police shall be required to comply with the prior employment or training requirement set forth in this subdivision as of January 1, 1993, or a date one year subsequent to the initial employment of the chief of security or chief of police by the community college district, whichever occurs later. This subdivision shall not be construed to require the employment by a community college district of any additional personnel.

SEC. 5. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 410

An act to amend Sections 4602, 4607, 4607.2, and 4608.1 of the Civil Code, relating to family law.

[Approved by Governor September 16, 1991. Filed with Secretary of State September 17, 1991]

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

SECTION 1. Section 4602 of the Civil Code is amended to read:

4602. In any proceeding under this part, when so directed by the court, the probation officer, domestic relations investigator, or court appointed evaluator shall conduct a custody investigation and file a written confidential report on it. The report may be considered by the court and shall be made available only to the parties or their attorneys at least 10 days before any hearing regarding the custody of a child. The report may be received in evidence upon stipulation of all interested parties.

Where there has been a history of domestic violence between the parties, as domestic violence is defined in subdivision (b) of Section 542 of the Code of Civil Procedure, or where an order is in effect pursuant to paragraph (2) or (3) of subdivision (a) of Section 4359, Section 4516, or paragraph (1) or (2) or subdivision (a) of Section 7020 of this code, or Section 546 of the Code of Civil Procedure, at the request of a party alleging domestic violence in a written declaration under penalty of perjury or at the request of a party who is protected by the order, the parties shall meet with the probation

officer, domestic relations investigator, or court appointed evaluator separately at separate times.

When the probation officer, domestic relations investigator, or court appointed evaluator is directed by the court to conduct a custody investigation or to undertake visitation work, including necessary evaluation, supervision, and reporting, the court shall make inquiry into the financial condition of the parent, guardian, or such other person charged with the support and maintenance of the minor, and if the court finds the parent, guardian, or other person able, in whole or in part, to pay the expense of the investigation, report, and recommendation, the court may make an order requiring that parent, guardian, or other person to repay to the county that part, or all, of the expense of investigation, report, and recommendation as, in the opinion of the court, is proper. The repayment shall be made to the county officer designated by the board of supervisors, who shall keep suitable accounts of these expenses and repayments and shall deposit these collections in the county treasury.

Nothing in this section shall prohibit the probation officer, domestic relations investigator, or court appointed evaluator from recommending to the court that counsel be appointed pursuant to Section 4606 to represent the minor child or children. In making any recommendation, the probation officer, domestic relations investigator, or court appointed evaluator shall inform the court of the reasons why it would be in the best interests of the minor child or children to have counsel appointed.

SEC. 2. Section 4607 of the Civil Code is amended to read:

4607. (a) In any proceeding where there is at issue the custody of or visitation with a minor child, and where it appears on the face of the petition or other application for an order or modification of an order for the custody or visitation of a child or children that either or both such issues are contested, as provided in Section 4600, 4600.1, or 4601, the matter shall be set for mediation of the contested issues prior to or concurrent with the setting of the matter for hearing. Upon the adoption of a resolution by the board of supervisors authorizing the procedure, a petition also may be filed pursuant to this section for the mediation of a dispute relating to any existing order for custody or visitation; the mediation of a dispute concerning an existing order shall be set not later than 60 days after the filing of the petition. The purpose of the mediation proceeding shall be to reduce acrimony which may exist between the parties and to develop an agreement, assuring the child or children close and continuing contact with both parents that is in the best interests of the child or children. The mediator shall use his or her best efforts to effect a settlement of the custody or visitation dispute that is in the best interests of the child or children, consistent with the considerations required by Section 4608. Mediation shall not be denied to the parties on the basis that paternity is an issue in a proceeding before the court.

(b) Each superior court shall make available a mediator. The mediator may be a member of the professional staff of a family conciliation court, probation department, or mental health services agency, or may be any other person or agency designated by the court. In order to provide mediation services, the court shall not be required to institute a family conciliation court. The mediator shall meet the minimum qualifications required of a counselor of conciliation as provided in Section 1745 of the Code of Civil Procedure.

(c) Mediation proceedings shall be held in private and shall be confidential, and all communications, verbal or written, from the parties to the mediator made in a proceeding pursuant to this section shall be deemed to be official information within the meaning of Section 1040 of the Evidence Code.

(d) The mediator shall have the authority to exclude counsel from participation in the mediation proceedings where, in the discretion of the mediator, exclusion of counsel is deemed by the mediator to be appropriate or necessary. The mediator shall have the duty to assess the needs and interests of the child or children involved in the controversy and shall be entitled to interview the child or children when the mediator deems the interview appropriate or necessary. The mediator shall have the authority to meet with the parties separately when a request for separate mediation is made by one of the parties in any proceeding where there has been a history of domestic violence between the parties, as domestic violence is defined in subdivision (b) of Section 542 of the Code of Civil Procedure.

(e) The mediator may, consistent with local rules, render a recommendation to the court as to the custody or visitation of the child or children. The mediator may, in cases where the parties have not reached agreement as a result of the mediation proceeding, recommend to the court that an investigation be conducted pursuant to Section 4602, or that other action be taken to assist the parties to effect a resolution of the controversy prior to any hearing on the issues. The mediator may, in appropriate cases, recommend that restraining orders be issued, pending determination of the controversy, to protect the well-being of the children involved in the controversy. Any agreement reached by the parties as a result of mediation shall be reported to counsel for the parties by the mediator on the day set for mediation or as soon thereafter as practical, but prior to its being reported to the court. The agreement shall be limited to the resolution of issues relating to parenting plans, custody, or visitation, or any combination thereof. No agreement shall be confirmed or otherwise incorporated in an order of the court unless each party, in person or by his or her counsel of record, has affirmed and assented to the agreement in open court or by written stipulation. An agreement also may be so confirmed or incorporated if a party fails to appear at a noticed hearing on the issue involved in the agreement. All such custody or visitation agreements may be

modified at any time at the discretion of the court, subject to Sections 4600, 4600.5, and 4601.

(f) Nothing in this section shall prohibit the mediator from recommending to the court that counsel be appointed pursuant to Section 4606 to represent the minor child or children. In making any recommendation, the mediator shall inform the court of the reasons why it would be in the best interests of the minor child or children to have counsel appointed.

(g) Courts shall develop local rules to respond to requests for a change of mediators or to general problems relating to mediation.

SEC. 3. Section 4607.2 of the Civil Code is amended to read:

4607.2. (a) Notwithstanding Section 4607, in any proceeding in which mediation is required pursuant to Section 4607, where there has been a history of domestic violence between the parties, as domestic violence is defined in subdivision (b) of Section 542 of the Code of Civil Procedure, or where an order is in effect pursuant to paragraph (2) or (3) of subdivision (a) of Section 4359, Section 4516, or paragraph (1) or (2) of subdivision (a) of Section 7020 of this code, or Section 546 of the Code of Civil Procedure, at the request of the party alleging domestic violence or protected by the order the parties shall meet with the mediator appointed pursuant to Section 4607 separately at separate times.

(b) Any intake form that an agency charged with providing family court services may require the parties to complete prior to the commencement of mediation shall include a provision which indicates that at the request of a party alleging domestic violence in a written declaration under penalty of perjury or at the request of a party who is protected by the order, the parties shall meet with the mediator appointed pursuant to Section 4607 separately at separate times.

SEC. 4. Section 4608.1 of the Civil Code is amended to read:

4608.1. (a) In any proceeding under this part where custody of, or visitation with, a minor child is at issue, the court may require the parents of the child who are involved in the custody or visitation dispute, and the minor child to participate in outpatient counseling with a licensed mental health professional, or through other community programs and services that provide appropriate counseling, including, but not limited to, mental health or substance abuse services, for not more than six months if the court finds that the dispute between the parents or between a parent and the child poses a substantial danger to the best interests of the child and that the counseling is in the best interests of the minor child. The court shall fix the cost and shall order the entire cost of the services to be borne by the parties in the proportion as the court deems reasonable. The court, in its finding, shall set forth reasons why it has found the dispute poses a substantial danger to the best interests of the child and the counseling is in the best interest of the minor child, and that the financial burden created by the court order for counseling does not otherwise jeopardize a party's other financial obligations. The

court shall not order the parties to return to court upon the completion of counseling. Either party may file a new order to show cause or motion after counseling has been completed, and the court may again order counseling consistent with this section.

The counseling shall be specifically designed to facilitate communication between the parties regarding their minor child's best interest, to reduce conflict regarding visitation or custody, and to improve the quality of parenting skills of each parent.

(b) In any proceeding in which counseling is ordered pursuant to subdivision (a), where there has been a history of domestic violence between the parties, as domestic violence is defined in subdivision (b) of Section 542 of the Code of Civil Procedure, or where an order is in effect pursuant to paragraph (2) or (3) of subdivision (a) of Section 4359, Section 4516, or paragraph (1) or (2) of subdivision (a) of Section 7020, or Section 546 of the Code of Civil Procedure, at the request of a party alleging domestic violence in a written declaration under penalty of perjury or at the request of a party who is protected by the order, the parties shall meet with the mental health professional, or attend other community programs or services, separately at separate times.

SEC. 5. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 411

An act to repeal Section 11205 of, to add and repeal Section 11205 of, and to add Section 11205 to, the Vehicle Code, relating to vehicles, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 16, 1991 Filed with Secretary of State September 17, 1991.]

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

SECTION 1. Section 11205 of the Vehicle Code, as amended by Section 2 of Chapter 1091 of the Statutes of 1990, is repealed.

SEC. 2. Section 11205 of the Vehicle Code, as added by Section 3 of Chapter 1091 of the Statutes of 1990, is repealed.

SEC. 3. It is the intent of the Legislature in enacting this bill to regulate the naming of licensed traffic violator schools to prevent the use of names which are undesirable from a public safety perspective and are devised only to attract students.

The Department of Motor Vehicles regulates all traffic violator schools, but has not established guidelines for the naming of those schools. In the absence of guidelines for the naming of licensed traffic violator schools, many schools have adopted names that are undignified to the point of fostering a negative image, undermining the intent of the traffic safety training program, and constituting an embarrassment to the members of the public, judges, the courts, and the traffic school industry. This act is intended to eliminate the abusive practice of the use of inappropriate traffic school names.

This act defines the responsibilities of the department with respect to what is required to be included on the court referral list and traffic school owners' list, and how frequently those lists are to be printed and distributed.

SEC. 4. Section 11205 is added to the Vehicle Code, to read:

11205. (a) The department shall publish a traffic violator school referral list of all the approved locations of traffic violator school classes, by school name, to be transmitted to each municipal and justice court in the state in sufficient quantity to allow the courts to provide a copy to each person referred to traffic violator school. The list shall be revised at least twice annually and transmitted to the courts by the first day of January and the first day of July. It shall include all of the following:

(1) The name of each traffic violator school or, pursuant to subdivision (d), the general term "traffic violator school" followed by its traffic violator school license number.

(2) A phone number used for student information.

(3) The county and the judicial district.

(4) The cities where classes are available.

(b) Each traffic violator school owner shall be permitted one school name in a judicial district.

(c) The list shall be organized alphabetically in sections for each county and subsections for each judicial district within the county. The order of the names within each judicial district shall be random pursuant to a drawing or lottery conducted by the department.

(d) On the list prepared by the department under subdivision (c), each traffic violator school shall appear by name unless a court determines, pursuant to subdivision (e), that a name is inappropriate and directs the department to delete the name and instead list the school by the term "traffic violator school" followed by its license number. The deletion of the name of a school from the list for a judicial district shall not affect whether that school appears by name on the list for any other judicial district within the state. In making a determination under this subdivision regarding the deletion of a name from the list, the court shall use as its criteria whether the name is misleading to the public, undignified, or implies that the

school offers inducements or premiums which derogate or distort the instructional intent of the traffic safety program.

(e) When the department transmits any referral list to each municipal and justice court pursuant to subdivision (a), each municipal and justice court shall do all of the following:

(1) Within 30 days of receipt of the list, notify the school owner of any school name that the court intends to remove from the referral list.

(2) Within 60 days of receipt of the list, make every effort to schedule, conduct, and complete a hearing for the school owner, or a representative, if requested, at which the sole issue shall be whether the name violates the standards set forth in subdivision (d). A substitute name may be submitted to the court at the conclusion of the hearing, pursuant to subdivision (h).

(3) Within 10 days of the completion of that hearing, notify the department and school owner of any school names it intends to remove from the referral list.

(f) In order for a court action to delete a school name from the next referral list published by the department, the department shall receive court notification no later than 90 days prior to publication of the next referral list and, absent a direct order by a superior court or court of higher jurisdiction, the department shall not fail to publish a referral list on the grounds that there exists pending litigation or appeals concerning the lists.

(g) Any court notifying the department of a school name it intends to remove from the list, pursuant to this section, shall provide the school owner with the name of the judge making those findings.

(h) When a court informs a school owner, pursuant to subdivision (e), of its decision to delete the name of a traffic violator school from that judicial district's subsection of the department's traffic violator school referral list, the owner may, on a form approved by the department, submit a substitute name to the court and request approval of that name. The court shall, within 30 days of receipt of the request for approval of the substitute name, inform the department and the school owner, on a form approved by the department, of its approval or rejection of the substitute name. The school owner may continue this appeal process for approval of a substitute name until the court determines that the name does not violate the standard set forth in subdivision (d). A name approval in a judicial district shall not affect the school's name or listing in any other district in the state. The department shall not impose any fee or license requirement under this subdivision.

(i) If a court fails to act within 30 days on a request of a traffic violator school owner, pursuant to subdivision (h), the proposed substitute name shall be deemed approved by the court for the purposes of the traffic violator school referral list.

(j) (1) Every application filed with the department on and after June 1, 1991, for an original license by a traffic school owner or for approval to conduct classes in a judicial district not previously

approved, shall be accompanied by the approval of the court in each judicial district proposed for those operations of the name of the school, on a form approved by the department for that purpose. For the approved name to be included in the traffic violator school referral list, the form shall be received by the department no later than 90 days prior to publication.

(2) When a court disapproves a school name pursuant to this subdivision, the court shall notify the school owner within 30 days of its disapproval and schedule a hearing for that school owner, or a representative, if requested, at which the sole issue shall be whether the name violates the standards set forth in subdivision (d). A substitute name may be submitted to the court at the conclusion of the hearing, pursuant to subdivision (h).

(3) The court shall make every effort to schedule, conduct, and complete a hearing within 60 days of receipt of the school owner's request for a school name approval. A name approval in a judicial district shall not affect the school's name or listing in any other district in the state. A change in physical location by a school within a judicial district shall not require approval pursuant to this subdivision.

(k) The department shall publish a list of the owners of traffic violator schools. One copy shall be provided to each municipal and justice court in the state. This list shall be revised at least twice annually and transmitted to the courts by the first day of January and the first day of July. This list shall include all of the following:

(1) The name of each school, grouped by owner.

(2) The business office address.

(3) The business office telephone number.

(4) The license number.

(5) The owner's name.

(6) The operator's name.

(*l*) Except as otherwise provided in subdivision (d) of Section 42005, the court shall use either the current list of traffic violator schools published by the department when it orders a person to attend a traffic violator school pursuant to subdivision (a) or (b) of Section 42005 or, when a court utilizing a nonprofit agency for traffic violator school administration and monitoring services in which all traffic violator schools licensed by the department are allowed the opportunity to participate, a statewide referral list may be published by the nonprofit agency and distributed by the court. The agency shall monitor each classroom location represented on its referral list at least once every 90 days with reports forwarded to the department and the respective courts on a monthly basis.

(m) If any provision of subdivision (d) or (e), as added by Section 4 of Assembly Bill 185 of the 1991–92 Regular Session, or the application thereof to any person, is held to be unconstitutional, this section is repealed on the date the decision of the court so holding becomes final.

SEC. 5. Section 11205 is added to the Vehicle Code, to read:

11205. (a) The department shall publish semiannually, or more often as necessary to serve the purposes of this act, a list of all traffic violator schools which are licensed pursuant to this section. The list shall identify classroom facilities within a judicial district that are at a different location from a licensed school's principal facility. The department shall transmit the list to each municipal and justice court with a sufficient number of copies to allow the courts to provide one copy to each person referred to a licensed traffic violator school. The department shall, at least semiannually, revise the list to ensure that each court has a current list of all licensed traffic violator schools.

(b) Each licensed traffic violator school owner shall be permitted one school name per judicial district.

(c) The referral list shall be organized alphabetically, in sections for each county, and contain subsections for each judicial district within the county. The order of the names within each judicial district shall be random pursuant to a drawing or lottery conducted by the department.

(d) Except as otherwise provided in subdivision (d) of Section 42005, the court shall use either the current referral list of traffic violator schools published by the department when it orders a person to attend a traffic violator school pursuant to subdivision (a) or (b) of Section 42005 or, when a court utilizing a nonprofit agency for traffic violator school administration and monitoring services in which all traffic violator schools licensed by the department are allowed the opportunity to participate, a statewide referral list may be published by the nonprofit agency and distributed by the court. The agency shall monitor each classroom location represented on its referral list at least once every 90 days with reports forwarded to the department and the respective courts on a monthly basis.

(e) If any provision of subdivision (d) or (e) of Section 11205, as added by Section 4 of Assembly Bill 185 of the 1991–92 Regular Session, or the application thereof to any person, is held to be unconstitutional, that Section 11205 is repealed on the date the decision of the court so holding becomes final, and on that date, this section shall become operative.

SEC. 6. No reimbursement shall be made from the State Mandates Claims Fund pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code for costs mandated by the state pursuant to this act. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Part 7 (commencing with Section 17500) and any other provisions of law. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

SEC. 7. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into

immediate effect. The facts constituting the necessity are:

In order to protect the motoring public and enhance the effectiveness of traffic violator schools at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 412

An act to amend Sections 1365, 1366, and 1368 of the Civil Code, relating to common interest developments.

[Approved by Governor September 16, 1991. Filed with Secretary of State September 17, 1991.]

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

SECTION 1. Section 1365 of the Civil Code is amended to read:

1365. Unless the declaration imposes more stringent standards, the association shall prepare and distribute to all its members the following documents:

(a) A pro forma operating budget, which shall include all of the following:

(1) The estimated revenue and expenses on an accrual basis.

(2) A summary of the association's reserves based upon the most recent review or study conducted pursuant to Section 1365.5, which shall be printed in bold type and include all of the following:

(A) The current estimated replacement cost, estimated remaining life, and estimated useful life of each major component.

(B) As of the end of the fiscal year for which the study is prepared:

(i) The current estimate of the amount of cash reserves necessary to repair, replace, restore, or maintain the major components.

(ii) The current amount of accumulated cash reserves actually set aside to repair, replace, restore, or maintain major components.

(C) The percentage that the amount determined for purposes of clause (ii) of subparagraph (B) is of the amount determined for purposes of clause (i) of subparagraph (B).

(3) A statement as to whether the board of directors of the association has determined or anticipates that the levy of one or more special assessments will be required to repair, replace, or restore any major component or to provide adequate reserves therefor.

(4) A general statement addressing the procedures used for the calculation and establishment of those reserves to defray the future repair, replacement, or additions to those major components that the association is obligated to maintain.

The summary of the association's reserves disclosed pursuant to paragraph (2) shall not be admissible in evidence to show improper financial management of an association, provided that other relevant and competent evidence of the financial condition of the association is not made inadmissible by this provision.

A copy of the operating budget shall be annually distributed not less than 45 days nor more than 60 days prior to the beginning of the association's fiscal year.

(b) A review of the financial statement of the association shall be prepared in accordance with generally accepted accounting principles by a licensee of the California State Board of Accountancy for any fiscal year in which the gross income to the association exceeds seventy-five thousand dollars ($75,000). A copy of the review of the financial statement shall be distributed within 120 days after the close of each fiscal year.

(c) In lieu of the distribution of the pro forma operating budget required by subdivision (a), the board of directors may elect to distribute a summary of the pro forma operating budget to all its members with a written notice that the pro forma operating budget is available at the business office of the association or at another suitable location within the boundaries of the development and that copies will be provided upon request and at the expense of the association. If any member requests that a copy of the pro forma operating budget required by subdivision (a) be mailed to the member, the association shall provide the copy to the member by first-class United States mail at the expense of the association and delivered within five days. The written notice that is distributed to each of the association members shall be in at least 10-point bold type on the front page of the summary of the budget.

(d) A statement describing the association's policies and practices in enforcing lien rights or other legal remedies for default in payment of its assessments against its members shall be annually delivered to the members during the 60-day period immediately preceding the beginning of the association's fiscal year.

SEC. 2. Section 1366 of the Civil Code is amended to read:

1366. (a) Except as provided in this section, the association shall levy regular and special assessments sufficient to perform its obligations under the governing documents and this title. However, annual increases in regular assessments for any fiscal year, as authorized by subdivision (b), shall not be imposed unless the board has complied with subdivision (a) of Section 1365 with respect to that fiscal year, or has obtained the approval of owners, constituting a quorum, casting a majority of the votes at a meeting or election of the association conducted in accordance with Chapter 5 (commencing with Section 7510) of Part 3 of Division 2 of Title 1 of the Corporations Code and Section 7613 of the Corporations Code. For the purposes of this section, "quorum" means more than 50 percent of the owners of an association.

(b) Notwithstanding more restrictive limitations placed on the board by the governing documents, the board of directors may not impose a regular assessment that is more than 20 percent greater than the regular assessment for the association's preceding fiscal year or impose special assessments which in the aggregate exceed 5 percent of the budgeted gross expenses of the association for that

fiscal year without the approval of owners, constituting a quorum, casting a majority of the votes at a meeting or election of the association conducted in accordance with Chapter 5 (commencing with Section 7510) of Part 3 of Division 2 of Title 1 of the Corporations Code and Section 7613 of the Corporations Code. For the purposes of this section, quorum means more than 50 percent of the owners of an association. This section does not limit assessment increases necessary for emergency situations. For purposes of this section, an emergency situation is any one of the following:

(1) An extraordinary expense required by an order of a court.

(2) An extraordinary expense necessary to repair or maintain the common interest development or any part of it for which the association is responsible where a threat to personal safety on the property is discovered.

(3) An extraordinary expense necessary to repair or maintain the common interest development or any part of it for which the association is responsible that could not have been reasonably foreseen by the board in preparing and distributing the pro forma operating budget under Section 1365. However, prior to the imposition or collection of an assessment under this subdivision, the board shall pass a resolution containing written findings as to the necessity of the extraordinary expense involved and why the expense was not or could not have been reasonably foreseen in the budgeting process, and the resolution shall be distributed to the members with the notice of assessment.

(c) The association shall provide notice by first-class mail to the owners of the separate interests of any increase in the regular or special assessments of the association, not less than 30 nor more than 60 days prior to the increased assessment becoming due.

(d) Regular and special assessments levied pursuant to the governing documents are delinquent 15 days after they become due. If an assessment is delinquent the association may recover all of the following:

(1) Reasonable costs incurred in collecting the delinquent assessment, including reasonable attorney's fees.

(2) A late charge not exceeding 10 percent of the delinquent assessment or ten dollars ($10), whichever is greater, unless the declaration specifies a late charge in a smaller amount, in which case any late charge imposed shall not exceed the amount specified in the declaration.

(3) Interest on all sums imposed in accordance with this section, including the delinquent assessment, reasonable costs of collection, and late charges, at an annual percentage rate not to exceed 12 percent interest, commencing 30 days after the assessment becomes due.

(e) Associations are hereby exempted from interest-rate limitations imposed by Article XV of the California Constitution, subject to the limitations of this section.

SEC. 3. Section 1368 of the Civil Code is amended to read:

1368. (a) The owner of a separate interest, other than an owner subject to the requirements of Section 11018.6 of the Business and Professions Code, shall, as soon as practicable before transfer of title to the separate interest or execution of a real property sales contract therefor, as defined in Section 2985, provide the following to the prospective purchaser:

(1) A copy of the governing documents of the common interest development.

(2) If there is a restriction in the governing documents limiting the occupancy, residency, or use of a separate interest on the basis of age in a manner different from that provided in Section 51.3, a statement that the restriction is only enforceable to the extent permitted by Section 51.3 and a statement specifying the applicable provisions of Section 51.3.

(3) A copy of the most recent financial statement distributed pursuant to Section 1365.

(4) A true statement in writing from an authorized representative of the association as to the amount of the association's current regular and special assessments and fees, as well as any assessments levied upon the owner's interest in the common interest development which are unpaid on the date of the statement. The statement shall also include true information on late charges, interest, and costs of collection which, as of the date of the statement, are or may be made a lien upon the owner's interest in a common interest development pursuant to Section 1367.

(5) Any change in the association's current regular and special assessments and fees which have been approved by the association's board of directors, but have not become due and payable as of the date disclosure is provided pursuant to this subdivision.

(b) Upon written request, an association shall, within 10 days of the mailing or delivery of the request, provide the owner of a separate interest with a copy of the requested items specified in paragraphs (1), (2), (3), and (4) of subdivision (a). The association may charge a fee for this service, which shall not exceed the association's reasonable cost to prepare and reproduce the requested items.

(c) An association shall not impose or collect any assessment, penalty, or fee in connection with a transfer of title or any other interest except the association's actual costs to change its records and that authorized by subdivision (b).

(d) Any person or entity who willfully violates this section shall be liable to the purchaser of a separate interest which is subject to this section for actual damages occasioned thereby and, in addition, shall pay a civil penalty in an amount not to exceed five hundred dollars ($500). In an action to enforce this liability, the prevailing party shall be awarded reasonable attorneys' fees.

(e) Nothing in this section affects the validity of title to real property transferred in violation of this section.

(f) In addition to the requirements of this section, an owner

transferring title to a separate interest shall comply with applicable requirements of Sections 1133 and 1134.

CHAPTER 413

An act to amend Sections 3412, 3413, and 3611 of the Probate Code, relating to estates.

[Approved by Governor September 16, 1991. Filed with Secretary of State September 17, 1991.]

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

SECTION 1. Section 3412 of the Probate Code is amended to read:

3412. If the minor has a guardian of the estate and the sole asset of the guardianship estate is money, the court may order that the guardianship of the estate be terminated and, if the court so orders, the court in its discretion shall also order any one or more of the following:

(a) That the money be deposited with the county treasurer, provided that (1) the county treasurer has been authorized by the county board of supervisors to handle the deposits, (2) the county treasurer shall receive and safely keep all money deposited with the county treasurer pursuant to this subdivision, shall pay the money out only upon the order of the court, and shall credit each estate with the interest earned by the funds deposited less the county treasurer's actual cost authorized to be recovered under Section 27013 of the Government Code, (3) the county treasurer and sureties on the official bond of the county treasurer are responsible for the safekeeping and payment of the money, (4) the county treasurer shall ensure that the money deposited is to earn interest or dividends, or both, at the highest rate which the county can reasonably obtain as a prudent investor, and (5) funds so deposited with the county treasurer shall only be invested or deposited in compliance with the provisions governing the investment or deposit of state funds set forth in Chapter 5 (commencing with Section 16640) of Part 2 of Division 4 of Title 2 of the Government Code, the investment or deposit of county funds set forth in Chapter 4 (commencing with Section 53600) of Part 1 of Division 2 of Title 5 of the Government Code, or as authorized under Chapter 6 (commencing with Section 2400) of Part 4 of this code; or in an insured account in a financial institution in this state, or in a single-premium deferred annuity, subject to withdrawal only upon authorization of the court.

(b) That all or any part of the money be transferred to a custodian for the benefit of the minor under the California Uniform Transfers to Minors Act, Part 9 (commencing with Section 3900).

(c) If the money of the guardianship estate does not exceed

twenty thousand dollars ($20,000), that the money be held on such other conditions as the court in its discretion determines to be in the best interests of the minor.

(d) If the money of the guardianship estate does not exceed five thousand dollars ($5,000), that all or any part of the money be paid to a parent of the minor, without bond, upon the terms and under the conditions specified in Article 1 (commencing with Section 3400).

SEC. 2. Section 3413 of the Probate Code is amended to read:

3413. If the minor has no guardian of the estate and there is money belonging to the minor, the court may order that a guardian of the estate be appointed and that the money be paid to the guardian or the court may order any one or more of the following:

(a) That the money be deposited with the county treasurer, provided that (1) the county treasurer has been authorized by the county board of supervisors to handle the deposits, (2) the county treasurer shall receive and safely keep all money deposited with the county treasurer pursuant to this subdivision, shall pay the money out only upon the order of the court, and shall credit each estate with the interest earned by the funds deposited less the county treasurer's actual cost authorized to be recovered under Section 27013 of the Government Code, (3) the county treasurer and sureties on the official bond of the county treasurer are responsible for the safekeeping and payment of the money, (4) the county treasurer shall ensure that the money deposited is to earn interest or dividends, or both, at the highest rate which the county can reasonably obtain as a prudent investor, and (5) funds so deposited with the county treasurer shall only be invested or deposited in compliance with the provisions governing the investment or deposit of state funds set forth in Chapter 5 (commencing with Section 16640) of Part 2 of Division 4 of Title 2 of the Government Code, the investment or deposit of county funds set forth in Chapter 4 (commencing with Section 53600) of Part 1 of Division 2 of Title 5 of the Government Code, or as authorized under Chapter 6 (commencing with Section 2400) of Part 4 of this code; or in an insured account in a financial institution in this state, or in a single-premium deferred annuity, subject to withdrawal only upon authorization of the court.

(b) That all or any part of the money be transferred to a custodian for the benefit of the minor under the California Uniform Transfers to Minors Act, Part 9 (commencing with Section 3900).

(c) If the money belonging to the minor does not exceed twenty thousand dollars ($20,000), that the money be held on such other conditions as the court in its discretion determines to be in the best interests of the minor.

(d) If the money belonging to the minor does not exceed five thousand dollars ($5,000), that all or any part of the money be paid to a parent of the minor, without bond, upon the terms and under the conditions specified in Article 1 (commencing with Section 3400).

SEC. 3. Section 3611 of the Probate Code is amended to read:

3611. In any case described in Section 3610, the court making the order or giving the judgment referred to in Section 3600 shall order any one or more of the following:

(a) That a guardian of the estate or conservator of the estate be appointed and that the remaining balance of the money and other property be paid or delivered to the person so appointed.

(b) That the remaining balance of any money paid or to be paid be deposited with the county treasurer, provided that (1) the county treasurer has been authorized by the county board of supervisors to handle the deposits, (2) the county treasurer shall receive and safely keep all money deposited with the county treasurer pursuant to this subdivision, shall pay the money out only upon the order of the court, and shall credit each estate with the interest earned by the funds deposited less the county treasurer's actual cost authorized to be recovered under Section 27013 of the Government Code, (3) the county treasurer and sureties on the official bond of the county treasurer are responsible for the safekeeping and payment of the money, (4) the county treasurer shall ensure that the money deposited is to earn interest or dividends, or both, at the highest rate which the county can reasonably obtain as a prudent investor, and (5) funds so deposited with the county treasurer shall only be invested or deposited in compliance with the provisions governing the investment or deposit of state funds set forth in Chapter 5 (commencing with Section 16640) of Part 2 of Division 4 of Title 2 of the Government Code, the investment or deposit of county funds set forth in Chapter 4 (commencing with Section 53600) of Part 1 of Division 2 of Title 5 of the Government Code, or as authorized under Chapter 6 (commencing with Section 2400) of Part 4 of this code; or in an insured account in a financial institution in this state, or in a single-premium deferred annuity, subject to withdrawal only upon the authorization of the court, and that the remaining balance of any other property delivered or to be delivered be held on such conditions as the court determines to be in the best interest of the minor or incompetent person.

(c) If the remaining balance of the money and other property to be paid or delivered does not exceed twenty thousand dollars ($20,000) in value, that all or any part of the money and other property be held on such other conditions as the court in its discretion determines to be in the best interest of the minor or incompetent person.

(d) If the remaining balance of the money and other property to be paid or delivered does not exceed five thousand dollars ($5,000) in value and is to be paid or delivered for the benefit of a minor, that all or any part of the money and the other property be paid or delivered to a parent of the minor, without bond, upon the terms and under the conditions specified in Article 1 (commencing with Section 3400) of Chapter 2.

(e) If the remaining balance of the money or other property to be

paid or delivered is to be paid or delivered for the benefit of the minor, that all or any part of the money and other property be transferred to a custodian for the benefit of the minor under the California Uniform Transfers to Minors Act, Part 9 (commencing with Section 3900).

CHAPTER 414

An act to amend Sections 89725 and 89900 of, to add Sections 89049.1 and 89759 to, and to add Article 3 (commencing with Section 90520) to Chapter 11 of Part 55 of, the Education Code, and to amend Section 20009.1 of the Government Code, relating to postsecondary education.

[Approved by Governor September 16, 1991. Filed with Secretary of State September 17, 1991.]

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

SECTION 1. Section 89049.1 is added to the Education Code, to read:

89049.1. Notwithstanding Article 1.5 (commencing with Section 16360) of Chapter 2 of Part 2 of Division 4 of Title 2 of the Government Code, money received by the state from the United States for distribution by the trustees for student financial aid purposes shall not be remitted to the Federal Trust Fund, but shall only be reported to the Director of Finance for accounting purposes.

SEC. 2. Section 89725 of the Education Code is amended to read:

89725. Notwithstanding any other provision of law to the contrary, grants, revenues, and funds of any nature received by the trustees for research, workshops, conferences, institutes, and special projects from the state, federal government, local government, or private persons, may be transmitted to the Treasurer and, if transmitted, shall be deposited in the State Treasury to the credit of the California State University Special Projects Fund, which fund is hereby created.

All such grants, revenues, and funds are hereby appropriated without regard to fiscal years to the trustees for the operation, support, and development of research, workshops, conferences, institutes, and special projects in the California State University.

Provision shall be made by the trustees for reimbursements to the General Fund for the cost of space and services furnished to projects funded by the California State University Special Projects Fund.

Notwithstanding any other provision of the law to the contrary, the trustees shall have authority to establish the rules and procedures under which the fund shall operate. All expenditures shall be made in accordance with the rules and procedures, without prior approval of the Department of General Services or the Department of

Finance. All expenditures shall receive an annual postaudit by the Audits Division of the Department of Finance. This requirement for an annual postaudit shall be effective until July 1, 1992. On and after July 1, 1992, the expenditures from the fund shall be audited as frequently as the Audits Division deems appropriate.

Moneys in the California State University Special Projects Fund may be invested by the Treasurer, upon approval of the trustees in those eligible securities listed in Section 16430 of the Government Code. All interest or other earnings received pursuant to those investments shall be collected by the Treasurer and shall be deposited in the State Treasury to the credit of the California State University Special Projects Fund.

SEC. 3. Section 89759 is added to the Education Code, to read:

89759. Notwithstanding Sections 935.6, 948, 965, and 965.2 of the Government Code, or any other provision of law to the contrary, the Controller shall draw a warrant for the payment of any claim, settlement, or judgment against a special fund or a trust fund administered by the trustees if the trustees certify that sufficient moneys for the payment of the claim, settlement, or judgment exist within the special fund or trust fund. Records regarding the payments are subject to post audit by the Director of Finance.

SEC. 4. Section 89900 of the Education Code is amended to read:

89900. (a) A certified public accountant shall be selected by each auxiliary organization described in Section 89901. The office of the chancellor, in cooperation with the Department of Finance, shall develop and forward the applicable auditing and reporting procedures to each auxiliary organization for distribution to the selected certified public accountant. In accordance with procedures prescribed by the chancellor, the certified public accountant shall annually audit any and all state university auxiliary funds. The auxiliary organizations shall contract for and receive the audit annually, and shall submit the audit to the trustees. Auxiliary organizations shall annually publish an audited statement of their financial condition, which statement shall be disseminated as widely as feasible and be available to any person on request. In the case of an auxiliary organization primarily serving a single campus of the California State University, publication in the campus student newspaper shall be deemed compliance with this requirement. In the case of an auxiliary organization serving the Trustees of the California State University, distribution of the published audited statement of its financial condition at a regularly scheduled meeting of the trustees shall be deemed compliance with this requirement.

(b) In the case of an auxiliary organization primarily serving a single campus of the California State University, the president of that state university shall be responsible for ascertaining that all expenditures are in accordance with policies of the trustees, the propriety of all expenditures, and the integrity of the financial reporting, made by auxiliary organizations.

(c) The operation of auxiliary organizations shall be conducted in

conformity with regulations established by the trustees. The regulations shall include provisions requiring the governing board of each auxiliary organization to provide salaries, working conditions, and benefits for the full-time employees of each auxiliary organization that are comparable to those provided California State University employees performing similar services. However, the regulations may permit retirement benefits or permanent status benefits, or both, to be withheld from temporary and executive employees of each auxiliary organization. In addition, the regulations may exempt from the requirement of providing retirement benefits any auxiliary organization that is funded primarily by mandatory student fees collected by the trustees. For the purposes of this subdivision, a temporary employee is (a) an employee employed for a research project, workshop, institute, or other special project funded by any grant, contract or gift; or (b) an employee whose contract of employment is for a fixed term not exceeding three years. For the purposes of this subdivision, an executive employee is any management employee with responsibility for the development and execution of auxiliary organization policy and includes, but is not limited to, general managers, business managers, directors, and the like. For purposes of this subdivision, "full-time employee" means a person who is employed in a permanent position for 40 hours per week or for the required number of hours of a particular work shift, whichever is the lesser. Persons employed on a temporary, intermittent, irregular time base, or on a limited term basis are not "full-time employees," unless those employees are engaged on a continuing 10-month or academic year basis and are employed for 40 hours per week or for the required number of hours of a particular work shift, whichever is the lesser. For those full-time employees whose duties are not comparable to classes in California State University employment, the salaries established shall be at least equal to the salaries prevailing in other educational institutions in the area or commercial operations of like nature. This requirement shall apply to full-time employees of auxiliary organizations even if there are no California State University employees performing similar services.

(d) Retirement benefits may be provided by other than the Public Employees' Retirement System. A contract for participation in the Public Employees' Retirement System in accordance with the terms and conditions of the Public Employees' Retirement Law shall be deemed to satisfy fully the requirements of subdivision (c) with respect to retirement.

Notwithstanding anything in subdivision (c) to the contrary, the regulations established by the trustees may exempt the governing board of any newly created auxiliary organization from the requirement of providing retirement benefits for a period not to exceed three years from the date that the auxiliary organization is established.

SEC. 5. Article 3 (commencing with Section 90520) is added to

Chapter 11 of Part 55 of the Education Code, to read:

Article 3. State Police Services

90520. The trustees shall not be charged or otherwise assessed for state police services to the chancellor's office or any state facility under the control of the chancellor's office, except for those police services requested by the trustees.

SEC. 6. Section 20009.1 of the Government Code is amended to read:

20009.1. "Public agency" also includes the following:

(a) The Commandant, Veterans Home of California, with respect to employees of the post exchange and other post fund activities whose compensation is paid from the post fund of the Veterans Home of California.

(b) Any auxiliary organization operating pursuant to Chapter 7 (commencing with Section 89900) of Part 55 of the Education Code and in conformity with regulations adopted by the Trustees of the California State University and any auxiliary organization operating pursuant to Article 6 (commencing with Section 72670) of Chapter 6 of Part 45 of the Education Code and in conformity with regulations adopted by the Board of Governors of the California Community Colleges.

(c) Any student body or nonprofit organization composed exclusively of students of the California State University or community college or of members of the faculty of the California State University or community college, or both, and established for the purpose of providing essential activities related to, but not normally included as a part of, the regular instructional program of the California State University or community college.

(d) A state organization of governing boards of school districts, the primary purpose of which is the advancing of public education through research and investigation.

(e) Any nonprofit corporation whose membership is confined to public agencies as defined in Section 20009.

(f) A section of the California Interscholastic Federation.

(g) Any credit union incorporated under Division 5 (commencing with Section 14000) of the Financial Code, or incorporated pursuant to federal law, with 95 percent of its membership limited to employees who are members of or retired members of the Public Employees' Retirement System or the State Teachers' Retirement System, and their immediate families, and employees of any such credit union. For the purposes of this subdivision, "immediate family" means those persons related by blood or marriage who reside in the household of a member of the credit union who is a member of or retired member of the Public Employees' Retirement System or the State Teachers' Retirement System. The credit union shall pay any costs that are in addition to the normal charges required to enter into a contract with the board.

All the payments made by the credit union that are in addition to the normal charges required shall be added to the total amount appropriated by the Budget Act for the administrative expense of the system. For purposes of this subdivision, a credit union shall not be deemed to be a public agency unless it has entered into a contract with the board pursuant to Chapter 4 (commencing with Section 20450) prior to January 1, 1988. After January 1, 1988, the board shall not enter into a contract with any credit union as a public agency.

(h) Any county superintendent of schools that was a contracting agency on July 1, 1983, and any school district or community college district that was a contracting agency with respect to local policemen, as defined in Section 20020.8, on July 1, 1983.

(i) Any school district or community college district that has established a police department, pursuant to Section 39670 or 72330 of the Education Code, and has entered into a contract with the board on or after January 1, 1990, for school safety members, as defined in Section 20019.6.

CHAPTER 415

An act to add Section 13135 to the Health Safety Code, relating to fire safety.

[Approved by Governor September 16, 1991 Filed with Secretary of State September 17, 1991.]

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

SECTION 1. Section 13135 is added to the Health and Safety Code, to read:

13135. The State Fire Marshal shall adopt regulations for alcoholism or drug abuse recovery or treatment facilities, as defined in Section 11834.11, based on whether the residents or patients of the facilities are nonambulatory, as defined in Section 13131, and not based on the age of residents or patients of the facilities.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 416

An act to add Sections 45164 and 88035.5 to the Education Code, relating to school employees, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 16, 1991 Filed with Secretary of State September 17, 1991.]

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

SECTION 1. Section 45164 is added to the Education Code, to read:

45164. (a) In addition to the benefits provided pursuant to Sections 395.01 and 395.02 of the Military and Veterans Code, any classified employee of a school district who, as a member of the California National Guard or a United States Military Reserve organization, was called into active military duty as a result of the Iraq-Kuwait crisis, shall have the benefits provided for in subdivision (b).

(b) Any classified employee to which subdivision (a) applies, while on active duty, shall, with respect to any active military duty served on or after August 2, 1990, receive from the school employer, for a period not to exceed 180 calendar days, as part of his or her compensation, all of the following:

(1) The difference between the amount of his or her military pay and allowances and the amount the employee would have received as a classified employee, including any merit raises that would otherwise have been granted during the time the individual was on active military duty.

(2) All benefits that he or she would have received had he or she not been called to active military duty, unless the benefits are prohibited or limited by vendor contracts.

(c) Any individual receiving compensation pursuant to subdivision (b) who does not return to the service of that school district within 60 days after being released from active duty shall have that compensation treated as a loan payable with interest at the rate earned on the Pooled Money Investment Account. This subdivision shall not apply to compensation received pursuant to Section 19775 of the Government Code or Section 395.02 of the Military and Veterans Code.

(d) This section shall not apply to any active military duty served voluntarily after the close of the Iraq-Kuwait crisis.

SEC. 2. Section 88035.5 is added to the Education Code, to read:

88035.5. (a) In addition to the benefits provided pursuant to Sections 395.01 and 395.02 of the Military and Veterans Code, any classified employee of a community college district who, as a member of the California National Guard or a United States Military Reserve organization, was called into active military duty as a result

of the Iraq-Kuwait crisis, shall have the benefits provided for in subdivision (b).

(b) Any classified employee to which subdivision (a) applies, while on active duty, shall, with respect to any active military duty served on or after August 2, 1990, receive from the community college employer, for a period not to exceed 180 calendar days, as part of his or her compensation, all of the following:

(1) The difference between the amount of his or her military pay and allowances and the amount the employee would have received as a classified employee, including any merit raises that would otherwise have been granted during the time the individual was on active military duty.

(2) All benefits that he or she would have received had he or she not been called to active military duty, unless the benefits are prohibited or limited by vendor contracts.

(c) Any individual receiving compensation pursuant to subdivision (b) who does not return to the service of that community college district within 60 days after being released from active duty shall have that compensation treated as a loan payable with interest at the rate earned on the Pooled Money Investment Account. This subdivision shall not apply to compensation received pursuant to Section 19775 of the Government Code or Section 395.02 of the Military and Veterans Code.

(d) This section shall not apply to any active military duty served voluntarily after the close of the Iraq-Kuwait crisis.

SEC. 3. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

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

In order to ensure that classified employees of school districts and community college districts who have been called to active duty due to the Iraq-Kuwait crisis are provided with compensation for time served prior to January 1, 1991, it is necessary that this act go into immediate effect.

CHAPTER 417

An act to add Section 4563 to the Government Code, relating to transit.

[Approved by Governor September 16, 1991. Filed with Secretary of State September 17, 1991.]

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

SECTION 1. Section 4563 is added to the Government Code, to read:

4563. (a) Sections 4560, 4561, and 4562 are not applicable to any state-owned transit facility.

(b) Space at a state-owned transit facility may be leased by competitive bid, taking into consideration affordability and quality of care, to a child care operator whose child care program is currently accredited by the National Association for the Education of Young Children. Within 18 months after initiation of a child care program at a state-owned transit facility, the child care operator shall obtain National Association for the Education of Young Children accreditation for the child care program at the transit facility. First priority for child care services provided by the center shall be given to children of state employees who work at the transit facility and second priority shall be given to children of the users of the transit facility.

(c) No state funds shall be provided to any child care operator pursuant to this section unless all of the following conditions are met:

(1) The child care facility is open to children without regard to any child's religious beliefs or any other factor related to religion.

(2) No religious instruction is included in the child care program.

(3) The space in which the child care program is operated is not utilized in any manner to foster religion during the time it is used for child care.

(d) The Legislature finds and declares that the use of public property or facilities for the purpose of furnishing child care services for the benefit of persons using public transit is in the public interest and serves a public purpose.

CHAPTER 418

An act to amend Sections 11836, 11836.10, 11836.12, 11837, 11837.5, and 11838.4 of the Health and Safety Code, relating to driving offenses.

[Approved by Governor September 16, 1991. Filed with Secretary of State September 17, 1991.]

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

SECTION 1. Section 11836 of the Health and Safety Code is amended to read:

11836. The department shall have the sole authority to license drinking driver programs. As used in this chapter "program" means any firm, partnership, association, corporation, local governmental entity, agency or place which has been recommended by the county board of supervisors and which is licensed by the department to provide alcohol or drug recovery services to persons convicted of Section 23152 or 23153 of the Vehicle Code and referred to a program pursuant to Section 13352, 13353.4, 23161, 23166, 23171, 23176, 23181, 23186, or 23191 of the Vehicle Code.

SEC. 2. Section 11836.10 of the Health and Safety Code is amended to read:

11836.10. No person, firm, partnership, association, corporation, or local governmental entity shall operate, establish, manage, conduct, or maintain a drinking driver program in this state without a current and valid license issued pursuant to this chapter.

SEC. 3. Section 11836.12 of the Health and Safety Code is amended to read:

11836.12. Criteria for licensure of new or existing programs shall include all of the following:

(a) Completion of a written application containing necessary and pertinent information describing the applicant program.

(b) Demonstration by the applicant that it possesses adequate administrative, fiscal, and operational capability to operate a drinking driver program.

(c) Onsite review of the program by department staff determines that the program is clean, safe, free of alcohol or illicit drug use, and that the program adheres to applicable statutes and regulations.

(d) The program has paid all licensing fees.

SEC. 4. Section 11837 of the Health and Safety Code is amended to read:

11837. (a) Pursuant to the provisions of law relating to suspension of a person's privilege to operate a motor vehicle upon conviction for driving while under the influence of an alcoholic beverage or under the combined influence of an alcoholic beverage and any drug, as set forth in paragraph (3) or (4) of subdivision (a) of Section 13352 of the Vehicle Code, the Department of Motor

Vehicles shall restrict the driving privilege pursuant to Section 13352.5 of the Vehicle Code, if the court has notified the department pursuant to Section 13352.5 of the Vehicle Code that the person convicted of that offense has consented to participate for at least 18 months in a program designed to offer alcohol services to problem drinkers that is licensed pursuant to this chapter.

(b) In determining whether to refer a person, who is ordered to participate in a program pursuant to Section 23161 in a licensed alcohol or drug education and counseling services program or pursuant to Section 23166, 23171, 23176, 23181, 23186, or 23191 of the Vehicle Code, to a licensed 18-month or 30-month program, the court may consider any relevant information about the person made available pursuant to a presentence investigation, which is permitted but not required under Section 23205 of the Vehicle Code, or other screening procedure. That information shall not be furnished, however, by any person who also provides services in a privately operated, licensed program or who has any direct interest in a privately operated, licensed program. In addition, the court shall obtain from the Department of Motor Vehicles a copy of the person's driving record to determine whether the person is eligible to participate in a licensed 18-month or 30-month program pursuant to this chapter.

(c) The court may, as a condition of probation, refer a first offender to a licensed multiple offender program pursuant to this chapter to attend all of the education, group counseling, and interview sessions described in Title 9 of the California Code of Regulations if ordered to participate in six, nine, or 12 months of program activities. Notwithstanding Section 13352.5 of the Vehicle Code, if a first offender is referred to a licensed program pursuant to Section 23161 or 23181 of the Vehicle Code, that person may participate in a program if convicted of another offense punishable under Section 23165 or 23185 of the Vehicle Code.

(d) The court may, subject to Sections 11837.2 and 11838.2, and subject to Section 13352.5 of the Vehicle Code, and as a condition of probation, refer a person to a licensed program, even though the person's privilege to operate a motor vehicle is restricted, suspended, or revoked. An 18-month program described in Section 23166 or 23186 of the Vehicle Code or a 30-month program described in Section 23171, 23176, or 23191 of the Vehicle Code may include treatment of family members and significant other persons related to the convicted person with the consent of those family members and others as described in Title 9 of the California Code of Regulations, if there is no increase in the costs of the program to the convicted person.

SEC. 5. Section 11837.5 of the Health and Safety Code is amended to read:

11837.5. (a) No person may participate in any program that has not been licensed by the department pursuant to this chapter.

(b) The department shall charge reasonable fees for licensing

drinking driver programs. The department shall set the fees in an amount sufficient to cover all administrative costs incurred by the department and to reimburse the Department of Motor Vehicles for the costs of the evaluation and report required by Section 9 of Senate Bill 1344 of the 1989–90 Regular Session.

(c) The department may fine a provider who is delinquent in the payment of licensing fees. The department shall deposit fines collected from delinquent providers in the Drinking Driver Program Licensing Trust Fund, and the revenues from the fines shall be used, upon appropriation, to offset costs incurred by the department in the administration of the program and to reimburse the Department of Motor Vehicles for the costs of the evaluation and report required by Section 9 of Senate Bill 1344 of the 1989–90 Regular Session.

(d) If a program fails to pay licensing fees or assessed fines, the department may deny an initial license or revoke an existing license.

(e) There is established in the State Treasury a Drinking Driver Program Licensing Trust Fund. All fees , fines, and penalties collected from drinking driver programs shall be deposited in this fund. The money in the fund shall be available when appropriated by the Legislature.

(f) The department shall prepare an annual report on the assets, liabilities, and balance in the Drinking Driver Program Licensing Trust Fund. The report shall also include an itemized statement of income and expenses for the trust fund since the last report. The department shall submit the report to the Legislature and shall furnish a copy of the report, upon request, to any provider of a drinking driver program.

(g) Licensing fees shall be evaluated annually and based on the department's projected costs for the forthcoming fiscal year. Any excess fees remaining in the Drinking Driver Program Licensing Trust Fund at the close of the fiscal year shall be carried forward and taken into consideration in establishment of fees for the subsequent fiscal year. If the department proposes to increase the licensing fees, the department shall justify the increase to the Legislature by showing that sufficient assets are not currently available in the Drinking Driver Program Licensing Trust Fund and that current licensing fee collections are not sufficient to support current or planned expenses of the department for drinking driver program licensing activities.

(h) Licensing fee collection procedures, which include the assessment of fines for delinquent fee payments, shall be defined in regulations adopted pursuant to this chapter.

SEC. 6. Section 11838.4 of the Health and Safety Code is amended to read:

11838.4. (a) Notwithstanding any other provision of this chapter, any person who violates Section 11836.10 may be assessed by the department an immediate civil penalty in the amount of two hundred dollars ($200) per day of the violation. The civil penalty shall be imposed if an unlicensed program is operated and the

operator refuses to seek licensure or the operator's licensure application is denied and the operator continues to operate the unlicensed program.

(b) In addition to suspension or revocation of a license issued under this chapter, the department may levy a civil penalty against any program provider who is not in compliance with statutes and regulations.

(1) The amount of the civil penalty shall not be less than twenty-five dollars ($25) or more than fifty dollars ($50) per day for each violation of this chapter except where the nature or seriousness of the violation or the frequency of the violation warrants a higher penalty or an immediate civil penalty assessment, or both, as determined by the department. In no event, shall the civil penalty assessment for noncompliance exceed one hundred fifty dollars ($150) per day, or a total of five thousand dollars ($5,000).

(2) Prior to the assessment of any civil penalty other than a civil penalty specified in paragraph (1) or (3), the program provider shall have a minimum of 30 days to correct the deficiency.

(3) Any program provider that is cited for repeating the same violation of this chapter within a 12-month period is subject to an immediate civil penalty of one hundred fifty dollars ($150) and fifty dollars ($50) for each day the violation continues until the deficiency is corrected. In no event shall the total fine exceed five thousand dollars ($5,000).

(4) The suspension, revocation, forfeiture, or surrender of a license issued by the department shall not deprive the department of its authority to institute or continue a disciplinary proceeding against a licensee upon any grounds provided for in law or to enter and order suspending or revoking the license or otherwise taking disciplinary action against the licensee.

(c) An operator may appeal the assessment to the director, and if the matter is unresolved at that stage, the operator may appeal the director's decision in accordance with Chapter 5 (commencing with Section 11500) of Part of Division 3 of Title 2 of the Government Code.

SEC. 7. The State Department of Alcohol and Drug Programs shall develop emergency regulations needed to implement, interpret, and make specific the provisions of this act. The regulations shall take effect immediately upon filing with the Secretary of State pursuant to Section 11346.1 of the Government Code.

CHAPTER 419

An act to amend Section 1564 of the Financial Code, relating to financial institutions.

[Approved by Governor September 16, 1991. Filed with Secretary of State September 17, 1991.]

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

SECTION 1. Section 1564 of the Financial Code is amended to read:

1564. (a) For purposes of this section, two or more trust companies shall be deemed to be affiliated if they are members of the same affiliated group, within the meaning of Section 1504 of the Internal Revenue Code.

(b) Any trust company may establish and administer common trust funds composed of property permitted by law for the investment of trust funds, for the purpose of furnishing investments to any one or more of the following: (1) itself, as fiduciary; (2) itself and others, as cofiduciaries; (3) any affiliated trust company including, without limitation, any foreign (other state) affiliated trust company, as fiduciary; and (4) any affiliated trust company including, without limitation, any foreign (other state) affiliated trust company and others, as cofiduciaries. Any trust company may as such fiduciary or cofiduciary invest funds which it lawfully holds for investment in interests in common trust funds administered by itself or by any affiliated trust company including, without limitation, any foreign (other state) affiliated trust company, if such investment is not prohibited by the instrument, judgment, decree, order, or statute creating or governing such fiduciary relationship, and if, in the case of cofiduciaries, the trust company procures the consent of its cofiduciaries to such investment.

(c) Each common trust fund established hereunder shall be treated as an entity separate and distinct from the fiduciary relationships participating therein. No fiduciary in administering a participating fiduciary relationship shall be required to make any apportionment or allocation between the principal and income of this relationship different from that made for the common trust fund. No participating fiduciary relationship, nor any person having an interest in that relationship, shall have or be deemed to have any ownership in any particular property of the common trust fund, but each participating fiduciary relationship shall have a proportionate undivided interest in the fund and its income; and the ownership of all property of the common trust fund shall be in the trustee of the fund.

(d) This section shall apply to fiduciary relationships now in existence or hereafter established, whether the same be revocable or irrevocable. The superintendent, at his direction, may make an

examination of any common trust fund established hereunder at the times and to the extent as he may deem advisable. The provisions of the Corporate Securities Law shall not apply to the creation, administration, or termination of common trust funds, nor to participation therein.

CHAPTER 420

An act to amend Sections 41950, 41953, and 41954 of the Public Resources Code, relating to solid waste.

[Approved by Governor September 16, 1991. Filed with Secretary of State September 17, 1991]

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

SECTION 1. Section 41950 of the Public Resources Code is amended to read:

41950. (a) No person, other than the authorized recycling agent of the city or county, shall remove paper, glass, cardboard, plastic, used motor oil, ferrous metal, aluminum, or other recyclable materials which have been segregated from solid waste materials and placed at a designated collection location for residential curbside collection programs authorized by a city, county, or local agency for the purposes of collection and recycling.

(b) No person shall be subject to an action for a violation of this section, unless the person knows, or reasonably should know, that the materials would otherwise be collected by the authorized recycling agent for residential curbside collection programs authorized by a city, county, or local agency for the purpose of recycling the materials.

(c) From the time the recyclable materials specified in subdivision (a) are placed for collection at curbside, for a residential curbside collection program authorized by a city, county, or local agency, the recyclable materials are the property of the authorized recycling agent.

SEC. 2. Section 41953 of the Public Resources Code is amended to read:

41953. In any civil action by a recycling agent against a person alleged to have violated Section 41950, the court may either allow treble damages, as measured by the value of the material removed, or award a civil penalty of not more than one thousand dollars ($1,000), whichever is greater, for each unauthorized removal, against the unauthorized person removing the recyclable material.

SEC. 3. Section 41954 of the Public Resources Code is amended to read:

41954. Nothing in this article limits the authority of a local agency to adopt or enforce regulations or ordinances on the same matters of

this article. However, any ordinance which imposes civil penalties shall be approved by a majority vote of the governing board which has proposed adoption of the ordinance.

CHAPTER 421

An act to amend Section 1018 of the Penal Code, relating to criminal procedure.

[Approved by Governor September 16, 1991. Filed with Secretary of State September 17, 1991]

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

SECTION 1. Section 1018 of the Penal Code is amended to read:

1018. Unless otherwise provided by law, every plea shall be entered or withdrawn by the defendant himself or herself in open court. No plea of guilty of a felony for which the maximum punishment is death, or life imprisonment without the possibility of parole, shall be received from a defendant who does not appear with counsel, nor shall that plea be received without the consent of the defendant's counsel. No plea of guilty of a felony for which the maximum punishment is not death or life imprisonment without the possibility of parole shall be accepted from any defendant who does not appear with counsel unless the court shall first fully inform him or her of the right to counsel and unless the court shall find that the defendant understands the right to counsel and freely waives it, and then only if the defendant has expressly stated in open court, to the court, that he or she does not wish to be represented by counsel. On application of the defendant at any time before judgment or within six months after an order granting probation is made if entry of judgment is suspended, the court may, and in case of a defendant who appeared without counsel at the time of the plea the court shall, for a good cause shown, permit the plea of guilty to be withdrawn and a plea of not guilty substituted. Upon indictment or information against a corporation a plea of guilty may be put in by counsel. This section shall be liberally construed to effect these objects and to promote justice.

CHAPTER 422

An act to amend Sections 1356, 1377, and 1394.7 of the Health and Safety Code, relating to health care.

[Approved by Governor September 18, 1991. Filed with Secretary of State September 19, 1991]

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

SECTION 1. Section 1356 of the Health and Safety Code is amended to read:

1356. (a) Each plan applying for licensure under this chapter shall pay to the commissioner a nonrefundable application fee in the amount of four thousand dollars ($4,000) or, if the applicant is to offer only one type of specialized plan contract, two thousand five hundred dollars ($2,500) at the time of submission of the application.

(b) In addition to other fees and reimbursements required to be paid under this chapter, each licensed plan and each nonprofit hospital service plan described in paragraph (3) of subdivision (d) of Section 1343, shall pay to the commissioner on or before the 15th day of December of each year, as a reimbursement of its share of all costs and expenses, including overhead, reasonably incurred in the administration of this chapter and not otherwise recovered by the commissioner under this chapter or from the General Fund, an amount as estimated by the commissioner for the ensuing year. The amount paid by each plan shall be two thousand five hundred dollars ($2,500) plus an amount up to but not exceeding twenty-seven cents ($0.27) for each family unit enrolled in its plan in this state as of the preceding June 30th, and shall be fixed by the commissioner by notice to all licensed plans and nonprofit hospital service plans on or before October 15th of each year. However, the amount paid by each nonprofit hospital service plan shall be two thousand dollars ($2,000) plus an amount up to, but not exceeding, one cent ($0.01) for each family unit and shall be for the purpose of reimbursing its share of all costs and expenses, including overhead, reasonably incurred in administering the changes made by Chapter 1043 of the Statutes of 1990, which included nonprofit hospital service plans within the scope of some parts of this chapter. In determining the amount assessed, the commissioner shall consider all appropriations from the General Fund for the support of this chapter and all reimbursements provided for in this chapter. For the purpose of this section, a family unit is a household composed of one or more individuals. The increase in the assessment authority made by Chapter 1043 of the Statutes of 1990 is to fund the administration of the provisions enacted by that statute. The department shall use the increased assessment authority provided under this section only to the extent that it reasonably anticipates costs associated with administering Sections 1394.7 and 1394.8.

(c) The expense of requiring nonprofit hospital service plans described in paragraph (3) of subdivision (d) of Section 1343 to comply with the financial requirements of this chapter shall be charged against each nonprofit hospital service plan. The amount charged shall be the actual cost associated with regulating a nonprofit hospital service plan described in paragraph (3) of subdivision (d) of Section 1343, including the actual salaries or compensation paid to the persons conducting the administration and enforcement, the expenses incurred in the course thereof, and overhead costs in connection therewith as fixed by the commissioner. In determining the cost of the administration or enforcement, the commissioner shall use the estimated average hourly cost for all persons of similar classification performing administration or enforcement for the fiscal year. The amounts charged shall be billed not more frequently than monthly and shall be remitted by the nonprofit hospital service plan to the commissioner within 30 days.

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

SEC. 2. Section 1377 of the Health and Safety Code is amended to read:

1377. (a) Every plan which reimburses providers of health care services that do not contract in writing with the plan to provide health care services, or which reimburses its subscribers or enrollees for costs incurred in having received health care services from providers that do not contract in writing with the plan, in an amount which exceeds 10 percent of its total costs for health care services for the immediately preceding six months, shall comply with the requirements set forth in either paragraph (1) or (2):

(1) (A) Place with the commissioner, or with any organization or trustee acceptable to the commissioner through which a custodial or controlled account is maintained, a noncontracting provider insolvency deposit consisting of cash or securities that are acceptable to the commissioner that at all times have a fair market value in an amount at least equal to 120 percent of the sum of the following:

(i) All claims for noncontracting provider services received for reimbursement, but not yet processed.

(ii) All claims for noncontracting provider services denied for reimbursement during the previous 45 days.

(iii) All claims for noncontracting provider services approved for reimbursement, but not yet paid.

(iv) An estimate of claims for noncontracting provider services incurred, but not reported.

(B) Each plan licensed pursuant to this chapter prior to January 1, 1991, shall, upon that date, make a deposit of 50 percent of the amount required by subparagraph (A), and shall maintain additional cash or cash equivalents as defined by rule of the commissioner, in the amount of 50 percent of the amount required by subparagraph

(A), and shall make a deposit of 100 percent of the amount required by subparagraph (A) by January 1, 1992.

(C) The amount of the deposit shall be reasonably estimated as of the first day of the month and maintained for the remainder of the month.

(D) The deposit required by this paragraph is in addition to the deposit that may be required by rule of the commissioner and is an allowable asset of the plan in the determination of tangible net equity as defined in subdivision (b) of Section 1300.76 of Title 10 of the California Code of Regulations. All income from the deposit shall be an asset of the plan and may be withdrawn by the plan at any time.

(E) A health care service plan that has made a deposit may withdraw that deposit or any part of the deposit if (i) a substitute deposit of cash or securities of equal amount and value is made, (ii) the fair market value exceeds the amount of the required deposit, or (iii) the required deposit under this paragraph is reduced or eliminated. Deposits, substitutions, or withdrawals may be made only with the prior written approval of the commissioner, but approval shall not be required for the withdrawal of earned income.

(F) The deposit required under this section is in trust and may be used only as provided by this section. The commissioner or, if a receiver has been appointed, the receiver shall use the deposit of an insolvent health care service plan, as defined in Sections 1394.7 and 1394.8, for payment of covered claims for services rendered by noncontracting providers under circumstances covered by the plan. All claims determined by the commissioner or receiver, in his or her discretion, to be eligible for reimbursement under this section shall be paid on a pro rata basis based on assets available from the deposit to pay the ultimate liability for incurred expenditures. Partial distribution may be made pending final distribution. Any amount of the deposit remaining shall be paid into the liquidation or receivership of the health care service plan. The commissioner may also use the deposit of an insolvent health care service plan for payment of any administrative costs associated with the administration of this section. The department, the commissioner, and any employee of the department shall not be liable, as provided by Section 820.2 of the Government Code, for an injury resulting from an exercise of discretion pursuant to this section. Nothing in this section shall be construed to provide immunity for the acts of a receiver, except when the commissioner is acting as a receiver.

(G) The commissioner may, by regulation, prescribe the time, manner, and form for filing claims.

(H) The commissioner may permit a plan to meet a portion of this requirement by a deposit of tangible assets acceptable to the commissioner, the fair market value of which shall be determined on at least an annual basis by the commissioner. The plan shall bear the cost of any appraisal or valuations required hereunder by the commissioner.

(2) Maintain adequate insurance, or a guaranty arrangement

approved in writing by the commissioner, to pay for any loss to providers, subscribers, or enrollees claiming reimbursement due to the insolvency of the plan.

(b) Whenever the reimbursements described in this section exceed 10 percent of the plan's total costs for health care services over the immediately preceding six months, the plan shall file a written report with the commissioner containing the information necessary to determine compliance with subdivision (a) no later than 30 business days from the first day of the month. Upon an adequate showing by the plan that the requirements of this section should be waived or reduced, the commissioner may waive or reduce these requirements to an amount as the commissioner deems sufficient to protect subscribers and enrollees of the plan consistent with the intent and purpose of this chapter.

(c) Every plan which reimburses providers of health care service on a fee-for-services basis; or which directly reimburses its subscribers or enrollees, to an extent exceeding 10 percent of its total payments for health care services, shall estimate and record in the books of account a liability for incurred and unreported claims. Upon a determination by the commissioner that the estimate is inadequate, the commissioner may require the plan to increase its estimate of incurred and unreported claims. Every plan shall promptly report to the commissioner whenever these reimbursables exceed 10 percent of its total expenditures for health care services.

As used herein, the term "fee-for-services" refers to the situation where the amount of reimbursement paid by the plan to providers of service is determined by the amount and type of service rendered by the provider of service.

(d) In the event an insolvent plan covered by this section fails to pay a noncontracting provider sums for covered services owed, the provider shall first look to the uncovered expenditures insolvency deposit or the insurance or guaranty arrangement maintained by the plan for payment. When a plan becomes insolvent, in no event shall a noncontracting provider, or agent, trustee, or assignee thereof, attempt to collect from the subscriber or enrollee sums owed for covered services by the plan or maintain any action at law against a subscriber or enrollee to collect sums owed by the plan for covered services without having first attempted to obtain reimbursement from the plan.

SEC. 3. Section 1394.7 of the Health and Safety Code is amended to read:

1394.7. (a) As used in this section the following definitions shall apply:

(1) "Health care service plan" means any plan as defined in Section 1345, but this section does not apply to specialized health care service contracts.

(2) "Carrier" means a health care service plan, an insurer issuing group disability coverage which covers hospital, medical, or surgical expenses, a nonprofit hospital service plan, or any other entity

responsible for either the payment of benefits or the provision of hospital, medical, and surgical benefits under a group contract.

(3) "Insolvency" means that the commissioner has determined that the health care service plan is not financially able to provide health care services to its enrollees and (A) the commissioner has taken an action pursuant to Section 1386, 1391, or 1399, or (B) an order requested by the commissioner or the Attorney General has been issued by the superior court under Section 1392, 1393, or 1394.1.

(b) In the event of the insolvency of a health care service plan and upon order of the commissioner, any health care service plan which the commissioner determines to have sufficient health care delivery resources and sufficient financial and administrative capacity and that participated in the enrollment process with the insolvent health care service plan at the last regular open enrollment period of a group shall offer enrollees of the group in the insolvent health care service plan a 30-day enrollment period commencing upon the date specified by the commissioner. Each health care service plan shall offer enrollees of the group in the insolvent health care service plan the same coverages and rates that it offered to enrollees of the group at the last regular open enrollment period of the group. Coverage shall be effective upon receipt by the successor plan of an application for enrollment by or on behalf of a subscriber or enrollee of the insolvent plan. The commissioner shall send a notice of the insolvency of a health care service plan to the Insurance Commissioner.

(c) If no other carrier had been offered to groups enrolled in the insolvent health care service plan, or if the commissioner determines that the other carriers do not include a sufficient number of health care service plans that have adequate health care delivery resources or the financial or administrative capacity to assure that health care services will be available and accessible to all of the group enrollees of the insolvent health care service plan, then the commissioner shall allocate equitably the insolvent health care service plan's group contracts for the groups, except for Medi-Cal contracts made pursuant to Section 14200 of the Welfare and Institutions Code, among all health care service plans which operate within at least a portion of the service area of the insolvent health care service plan, taking into consideration the health care delivery resources and the financial and administrative capacity of each health care service plan. The commissioner shall also have the authority to allocate equitably enrollees, except Medi-Cal enrollees, if he or she has been unable to successfully place them through the open enrollment procedure in subdivision (b). The commissioner shall make every reasonable effort to allocate enrollees within 30 days of the insolvency of the plan, but not later than 45 days after insolvency. Each health care service plan to which a group or groups are so allocated shall offer the group or groups the health care service plan's coverage which is most similar to each group's coverage with the insolvent health care service plan, as determined by the

commissioner, at rates determined in accordance with the successor health care service plan's existing rating methodology. Coverage shall be effective upon the date specified by the commissioner. Further, except to the extent benefits for any condition would have been reduced or excluded under the insolvent health care service plan's contract or policy, no provision in a successor health care service plan's contract of coverage that would operate to reduce or exclude benefits on the basis that the condition giving rise to benefits preexisted on the effective date of the enrollee's assignment to the succeeding health care service plan shall be applied with respect to those enrollees validly covered under the insolvent health care service plan's contract or policy on the date of the assignment.

The State Department of Health Services shall have the authority to allocate Medi-Cal enrollees to other carriers with valid Medi-Cal contracts, which operate within the same service area of an insolvent Medi-Cal contractor and that have sufficient capacity to absorb the Medi-Cal enrollees allocated to them.

(d) The commissioner shall also allocate equitably the insolvent health care service plan's nongroup enrollees among all health care service plans which operate within at least a portion of the service area of the insolvent health care service plan, taking into consideration the health care delivery resources or the financial and administrative capacity of each health care service plan. Each health care service plan to which nongroup enrollees are allocated shall offer the nongroup enrollees the health care service plan's most similar coverage for individual or conversion coverage, as determined by the commissioner, taking into consideration his or her type of coverage in the insolvent health care service plan, at rates determined in accordance with the successor health care service plan's existing rating methodology. Coverage shall be effective upon the date specified by the commissioner. Further, except to the extent benefits for any condition would have been reduced or excluded under the insolvent health care service plan's contract or policy, no provision in a successor health care service plan's contract of coverage that would operate to reduce or exclude benefits on the basis that the condition giving rise to benefits preexisted on the effective date of the enrollee's assignment to the succeeding health care service plan shall be applied with respect to those enrollees validly covered under the insolvent health care service plan's contract or policy on the date of the assignment. Successor health care service plans which do not offer direct nongroup enrollment may aggregate all allocated nongroup enrollees into one group for rating and coverage purposes.

(e) Contracting providers shall continue to provide services to enrollees of an insolvent plan until the effective date of an enrollee's coverage in a successor plan selected pursuant to either open enrollment or the allocation process but in no event for the period exceeding that required by their contract or 45 days in the case of allocation, whichever is greater; or for a period exceeding that

required by their contract or 30 days in the case of open enrollment, whichever is greater.

(f) The failure to comply with an order under this section shall constitute a violation of this section.

CHAPTER 423

An act to add and repeal Article 4.5 (commencing with Section 54685) of Chapter 9 of Part 29 of the Education Code, relating to education, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 18, 1991. Filed with Secretary of State September 19, 1991]

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

SECTION 1. Article 4.5 (commencing with Section 54685) is added to Chapter 9 of Part 29 of the Education Code, to read:

Article 4.5. The Early Intervention For School Success Program

54685. (a) The Legislature finds that many public school pupils enrolled in prekindergarten, kindergarten, and grade one do not have the developmental prerequisites to succeed in the mainstream of a traditional school program.

(b) The Legislature also finds and declares that there is a need to do all of the following:

(1) To establish a system to identify pupils of the ages of four to seven years, inclusive, who lack these developmental prerequisites.

(2) To implement appropriate instructional programs to reduce the frequency and severity of learning problems for these pupils in later years.

(3) To reduce the likelihood that these pupils eventually will need to be placed in remedial programs with higher costs.

(4) To help schools adjust curriculum and instruction to meet the needs of these pupils.

(c) The Legislature further finds and declares that the Early Prevention of School Failure Program, validated by the Federal Joint Dissemination Review Panel as a proven educational practice, is a model capable of providing a comprehensive range of materials and services to identify developmental levels and increase school success in pupils of the ages of four to seven years, inclusive, by helping schools provide individually and developmentally appropriate instruction.

54685.1. It is the intent of the Legislature to do all of the following:

(a) To continue the Early Intervention for School Success

Program which is an adaptation of the Early Prevention of School Failure Program.

(b) To implement the program at 200 public schoolsites within the state between July 1, 1991, and July 1, 1994.

(c) To enable school personnel to acquire the skills necessary to determine developmental levels and learning styles of pupils based on an initial assessment, validated and supported by using authentic assessment techniques, and the necessary knowledge, techniques, and materials to provide age-appropriate and individual appropriate instruction. Authentic assessments are defined as teacher observations, anecdotal records, and portfolios of work samples collected over time as children are engaged in age-appropriate classroom activities.

(d) To develop and identify model demonstration sites.

(e) To provide for the certification of school personnel as trainers assigned to each demonstration site.

(f) To conduct an independent evaluation of the program.

54685.2. The Orange County Superintendent of Schools, having been selected by the Superintendent of Public Instruction, shall continue to manage the implementation of the Early Intervention for School Success Program.

54685.3. The management plan required by Section 54685.2 shall include the following activities:

(a) The dissemination of program information.

(b) The awarding of incentive grants to schools representative of the ethnic, socioeconomic, and geographic diversity of the public school system.

(c) Provisions for training, materials, and technical assistance.

(d) An adaptation of the Early Prevention of School Failure Program to meet local school needs, including identification of existing materials and development of new materials, if needed.

(e) Selection of successful sites as demonstration models for additional implementation of the plan.

(f) Certification of one primary teacher for each demonstration site to serve as a local trainer.

(g) Provision for an annual program progress report and program evaluation by the Orange County Superintendent of Schools to be submitted to the State Department of Education.

54685.6. The selection of participating sites shall be based on a written application by the school district and the criteria listed in Section 54685.7. The criteria shall be verified by the school district's governing board prior to submission of the written application.

54685.7. The criteria to be used in selecting schoolsites as participants shall be based on the extent to which the school demonstrates all of the following:

(a) A need for the program.

(b) The ability and commitment to disseminate the model program, to serve as a model site, to release a teacher certified as a trainer in the program, to collect evaluation data, and to demonstrate

an interest to continue to employ successful programs after termination of state funding.

54685.8. The school district or schoolsites selected may accept or reject, at their option, designation as demonstration models.

54685.9. The techniques of the Early Prevention of School Failure Model Program which shall be included in the Early Intervention for School Success Program include all of the following:

(a) The use of a child study team approach for the initial assessment validated and supported through authentic assessment techniques of the preacademic learning needs of children of the ages of four to seven years, inclusive, as appropriate.

The child study team, when appropriate, shall use the home language of the pupil to assess the pupil's developmental levels. The results of these observations and assessments shall not be used to deny or delay school admissions or to track pupils.

(b) The selection and application of educational materials and instructional strategies that will be appropriate to pupils' developmental levels and individual learning needs. These materials and strategies will be selected with the purpose of providing an active and experiential learning environment.

54686. Training received by a teacher in techniques for the Early Intervention for School Success Program shall apply toward the requirement of professional growth, as required by subdivision (b) of Section 44277.

54686.2. This article shall become inoperative on July 1, 1994, and as of January 1, 1995, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1995, deletes or extends the dates on which it becomes inoperative and is repealed.

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

In order to continue during the entire 1991–92 school year the Early Intervention for School Success Program that was repealed on July 1, 1991, it is necessary that this act take effect immediately.

CHAPTER 424

An act to amend Sections 19488, 19531, 19549.4, 19605, 19605.6, 19605.7, 19605.71, 19605.9, 19606.1, 19606.3, 19612, 19612.6, and 19612.8 of, to add Sections 19446, 19481, and 19610.7 to, to repeal Sections 19446, 19481, 19486, 19549.4, 19605.5, 19605.73, 19606.2, and 19612.7 of, the Business and Professions Code, relating to horseracing, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 18, 1991 Filed with Secretary of State September 19, 1991.]

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

SECTION 1. Section 19446 of the Business and Professions Code, as added by Chapter 310 of the Statutes of 1991, is repealed.

SEC. 1.1. Section 19446 is added to the Business and Professions Code, to read:

19446. In performing its responsibilities, the board shall do all of the following:

(a) Establish standards governing the uniformity and content of the track base and racing surface, inner and outer rails, gates and gaps, turf, access and egress to the track, lighting for night racing, equipment for horse and rider, drainage, communication, veterinary, medical and ambulance service, and other track facilities in order to improve the safety of horses, riders, and workers in the racing inclosure. The board shall establish these standards by January 1, 1993.

(b) Designate a steward at all horseracing meetings to be responsible for maintaining safety standards.

SEC. 1.2. Section 19481 of the Business and Professions Code, as added by Chapter 310 of the Statutes of 1991, is repealed.

SEC. 1.3. Section 19481 is added to the Business and Professions Code, to read:

19481. (a) Notwithstanding any other provision of law, no license shall be issued to conduct a horserace meeting upon a track unless the track has been inspected by the board within 30 days prior to the date of application for a license, and the track has been approved by the board as conforming to the racetrack safety standards set forth in Section 19446.

(b) This section shall become operative on January 1, 1993.

SEC. 1.5. Section 19488 of the Business and Professions Code is amended to read:

19488. (a) Every license issued under this article shall specify the following:

(1) The name of the person to whom it is issued.

(2) The track where the horseracing meeting to which it relates is to be held or conducted.

(3) The days and hours of the day when the meeting will be permitted.

(4) The number and types of races to be run on each day of the meeting.

(5) The number of usable stalls available for the meeting.

(6) The name of the person responsible for supervising the maintenance of racetrack safety standards. This paragraph shall become operative on January 1, 1993.

(b) The license shall also recite the payment to, and receipt by, the board of the deposit to secure payment of the license fee

required by this article.

SEC. 1.7. Section 19486 of the Business and Professions Code is repealed.

SEC. 2. Section 19531 of the Business and Professions Code is amended to read:

19531. The board shall make allocations of racing weeks, including simultaneous racing between zones, as it deems appropriate. The maximum number of racing weeks which may be allocated for horseracing other than at the California Exposition and State Fair, or county or district agricultural association fairs, shall be as follows:

(a) For thoroughbred racing: 44 weeks per year in the northern zone; 42 weeks per year in the central zone; and seven weeks per year in the southern zone.

(b) For harness racing: 25 weeks per year in the northern zone.

(c) For quarter horse racing: 25 weeks per year in the northern zone.

(d) For harness racing and quarter horse racing: a total of 77 weeks per year in the combined central and southern zones.

(e) In its written application for a license, an applicant shall state the time of day, consistent with Section 19571, during which it will conduct its racing meeting, and particularly the first race starting time for the various racing days. After receiving a license, a licensee shall not change the first race starting time without securing prior approval of the board.

(f) Notwithstanding this section or any other provision in this chapter, the board shall not allocate dates to a thoroughbred association in the central zone for the purpose of conducting racing during daytime hours if a thoroughbred racing association is conducting racing in the southern zone on the same date during daytime hours.

(g) An association licensed to conduct a racing meeting in the southern zone may operate a satellite wagering facility at a location approved by the board pursuant to Section 19485 if the location is eligible to be used as a satellite wagering facility during any of the following periods:

(1) The first and second year in which the board allocates racing weeks to the location.

(2) The third year in which the board allocates racing weeks to the location only if at least 12 weeks of racing are allocated to the location during that year.

(3) The fourth year and any subsequent year in which the board allocates racing weeks to the location only if at least 12 weeks of racing are allocated to the location during each year, and only if the association actually conducted at least 12 weeks of racing at the location during the prior year, unless the failure to race these 12 weeks during any year is caused by a decision of the board to prohibit the overlap of night racing or a decision of the board to issue a competing application to another facility.

SEC. 2.3. Section 19549.4 of the Business and Professions Code, as amended by Chapter 1481 of the Statutes of 1990, is repealed.

SEC. 2.5. Section 19549.4 of the Business and Professions Code, as added by Chapter 273 of the Statutes of 1989, is amended to read:

19549.4. Notwithstanding Section 19414.5, the board may allocate racing weeks consisting of fewer than five days to an association conducting harness or quarter horse racing meetings if the association and the organization representing the horsemen participating in the meeting agree to the allocation.

SEC. 3. Section 19605 of the Business and Professions Code is amended to read:

19605. (a) Notwithstanding any other provision of law, the board may authorize an association licensed to conduct a racing meeting in the northern zone to operate a satellite wagering facility for wagering on races conducted in the northern zone at its racetrack inclosure subject to all of the conditions specified in Section 19605.3, and may authorize an association licensed to conduct a racing meeting in the central or southern zone to operate a satellite wagering facility for wagering on races conducted in the central or southern zone at its racetrack inclosure subject to the conditions specified in subdivisions (a) to (e), inclusive, of Section 19605.3 and the conditions and limitations set forth in Section 19605.6.

(b) Notwithstanding any other provision of law, no satellite wagering facility, except a facility that is located at a track where live racing is conducted, shall be located within 20 miles of any existing satellite wagering facility or any track where a racing association conducts a live racing meeting. This subdivision does not apply to an association described in subdivision (g) of Section 19531.

SEC. 3.5. Section 19605.5 of the Business and Professions Code, as amended by Chapter 21 of the Statutes of 1991, is repealed.

SEC. 4. Section 19605.6 of the Business and Professions Code is amended to read:

19605.6. (a) In addition to satellite wagering facilities authorized pursuant to Sections 19605, 19605.1, and 19605.2, the board, with the approval of the Department of Food and Agriculture, may authorize any county fair, district agricultural association fair, or citrus fruit fair in the County of Kern or Santa Barbara, eligible for an allocation of racing days pursuant to Section 19549, to operate a satellite wagering facility at its fairgrounds even though the fair is not licensed to conduct a racing meeting, and the fair may operate the facilities except for those functions to be performed by an organization described in Section 19608.2. Except as otherwise provided in this section, Sections 19605, 19605.3, 19605.4, 19605.7, 19605.8, 19606, 19606.1, 19606.3, and 19606.4 apply to satellite wagering facilities authorized pursuant to this section. A satellite wagering facility in the County of Kern, Fresno, Tulare, Santa Barbara, or Ventura, may receive the audiovisual signal from the northern, central, or southern zone, or from more than one of these zones at the same time.

(b) It is the intent of the Legislature that, prior to extending the

termination date in subdivision (d), the Legislature shall find that the multisignal authorized by this section is successful.

(c) It is the intent of the Legislature that the board provide, when feasible, for periods of at least 10 minutes between post times at the satellite wagering facilities operating under this section.

(d) This section shall remain in effect only until January 1, 1994, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1994, deletes or extends that date.

SEC. 4.5. Section 19605.6 of the Business and Professions Code is amended to read:

19605.6. (a) In addition to satellite wagering facilities authorized pursuant to Sections 19605, 19605.1, and 19605.2, the board, with the approval of the Department of Food and Agriculture, may authorize any county fair, district agricultural association fair, or citrus fruit fair in the County of Kern or Santa Barbara, eligible for an allocation of racing days pursuant to Section 19549, to operate a satellite wagering facility at its fairgrounds even though the fair is not licensed to conduct a racing meeting, and the fair may operate the facilities except for those functions to be performed by an organization described in Section 19608.2. Except as otherwise provided in this section, Sections 19605, 19605.3, 19605.4, 19605.7, 19605.71, 19605.8, 19606, 19606.1, 19606.3, and 19606.4 apply to satellite wagering facilities authorized pursuant to this section. A satellite wagering facility in the County of Kern, Fresno, Tulare, Santa Barbara, or Ventura, may receive the audiovisual signal from the northern, central, or southern zone, or from more than one of these zones at the same time.

(b) It is the intent of the Legislature that, prior to extending the termination date in subdivision (d), the Legislature shall find that the multisignal authorized by this section is successful.

(c) It is the intent of the Legislature that the board provide, when feasible, for periods of at least 10 minutes between post times at the satellite wagering facilities operating under this section.

(d) This section shall remain in effect only until January 1, 1994, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1994, deletes or extends that date.

SEC. 5. Section 19605.7 of the Business and Professions Code, as amended by Chapter 317 of the Statutes of 1991, is amended to read:

19605.7. The total percentage deducted from wagers at satellite wagering facilities in the northern zone shall be the same as the deductions for wagers at the racetrack where the racing meeting is being conducted and shall be distributed as set forth in this section. Amounts deducted under this section shall be distributed as follows:

(a) For thoroughbred meetings, 2.5 percent of the amount handled by the satellite wagering facility on conventional wagers and 4 percent on exotic wagers shall be distributed to the racing association for payment to the state as a license fee, 2 percent retained by the satellite wagering facility as a commission, 2.5 percent or the amount of actual operating expenses, as determined

by the board, whichever is less, distributed to an organization described in Section 19608.2, and four-tenths of 1 percent deposited with the official registering agency pursuant to subdivision (a) of Section 19617.2 and shall thereafter be distributed in accordance with subdivisions (b) and (c) of Section 19617.2, and one-tenth of 1 percent distributed to the Equine Research Laboratory, School of Veterinary Medicine, University of California at Davis. It is the intent of the Legislature that the one-tenth of 1 percent of funds distributed to the Equine Research Laboratory shall supplement, and not supplant, other funding sources.

(b) For harness, quarter horse, Appaloosa, Arabian, or mixed breed meetings, 1 percent of the amount handled by the satellite wagering facility on conventional wagers and 1 percent on exotic wagers shall be distributed to the racing association for payment to the state as a license fee, for fair meetings, 1.5 percent of the amount handled by the satellite wagering facility on conventional wagers and 3 percent on exotic wagers shall be distributed to the racing association for payment to the state as a license fee, 2 percent retained by the satellite wagering facility as a commission, and 6 percent of the amount handled by the satellite wagering facility or the amount of actual operating expenses, as determined by the board, whichever is less, distributed to an organization described in Section 19608.2. In addition, in the case of quarter horses, four-tenths of 1 percent shall be distributed as breeders' awards to breeders of quarter horses pursuant to Section 19617.6; in the case of Appaloosas, four-tenths of 1 percent shall be distributed as breeders' awards to breeders of Appaloosas; in the case of Arabians, four-tenths of 1 percent shall be distributed as breeders' awards to breeders of Arabians; in the case of standardbreds, four-tenths of 1 percent shall be distributed for the California Standardbred Sires Stakes Program pursuant to Section 19619; in the case of thoroughbreds, four-tenths of 1 percent shall be deposited with the official registering agency pursuant to subdivision (a) of Section 19617.2 and shall thereafter be distributed in accordance with subdivisions (b) and (c) of Section 19617.2; and one-tenth of 1 percent shall be distributed to the Equine Research Laboratory, School of Veterinary Medicine, University of California at Davis. It is the intent of the Legislature that the one-tenth of 1 percent of funds distributed to the Equine Research Laboratory shall supplement, and not supplant, other funding sources.

(c) In addition to the distributions specified in subdivision (a) or (b), for thoroughbred and fair meetings only, six-tenths of 1 percent of the total amount handled by each satellite wagering facility shall be allocated to the facility for promotion of that meeting's program. For harness, quarter horse, and mixed breed meetings, 1 percent of the total amount handled by each satellite wagering facility shall be distributed to an organization described in Section 19608.2 for promotion of the program at satellite wagering facilities.

(d) In addition to the distributions specified in subdivisions (a),

(b), and (c), for thoroughbred meetings, four-tenths of 1 percent of the total amount handled at each satellite wagering facility shall be allocated to the association providing the racing program to reimburse it for any costs of offsite stabling and vanning which are required pursuant to Section 19535. The amount of the reimbursement payable to an association for offsite stabling shall not exceed the actual cost to the association of maintaining stalls at its racetrack plus the actual costs incurred by the association to provide vanning and transportation of racehorses from offsite stabling facilities to its racetrack.

(e) In addition to the distributions specified in subdivisions (a), (b), and (c), for fair meetings, four-tenths of 1 percent of the total amount handled at each satellite wagering facility shall be allocated to the organization representing racing fairs to reimburse fairs for the actual cost of providing offsite stabling required by the board pursuant to Section 19535. If fairs contract with associations to provide offsite stabling during fair meetings, the cost incurred by fairs shall not exceed the actual cost to the association of maintaining the stalls or the amount of reimbursement funds made available pursuant to this subdivision, whichever is less. In the event of a disagreement between an association and the organization representing racing fairs or the organization representing the majority of horsemen participating at the meeting with respect to the actual cost of maintaining stalls, the board, at the request of the association or the organization representing racing fairs or the organization representing the majority of horsemen participating at the meeting, shall determine within 60 days the amount of actual costs incurred. For purposes of this subdivision, "actual cost" does not include fixed overhead or administrative expenses which would be incurred by the association in the absence of an agreement to provide offsite stabling during fair meetings.

(f) Any of the promotional funds distributed pursuant to subdivision (c) that are not expended in the year in which they are collected may be expended in the following year. If promotion funds expended in any year exceed the amount collected for that year, the funds expended in the following year shall be reduced by the excess amount.

(g) Any of the stabling and vanning reimbursement funds distributed pursuant to subdivision (d) or (e) that are not expended within 90 days of the end of the meeting at which they are collected shall be reallocated for promotion of the program at satellite wagering facilities, as provided in subdivision (c).

(h) Additionally, for thoroughbred, harness, quarter horse, mixed breed, and fair meetings, thirty-three hundredths of 1 percent of the total amount handled by each satellite wagering facility shall be paid to the city or county in which the satellite wagering facility is located pursuant to Section 19610.3 or 19610.4.

(i) Notwithstanding any other provision of law, a racing association is responsible for the payment of the state license fee as

required by this section.

SEC. 6. Section 19605.71 of the Business and Professions Code, as amended by Chapter 317 of the Statutes of 1991, is amended to read:

19605.71. The total percentage deducted from wagers at satellite wagering facilities in the central and southern zone shall be the same as the percentage deducted from wagers at the racetrack where the racing meeting is being conducted and shall be distributed as set forth in this section. Amounts deducted by a satellite wagering facility under this section shall be distributed as follows:

(a) For thoroughbred meetings, 2.5 percent of the amount handled by the satellite wagering facility on conventional wagers and 4 percent on exotic wagers shall be distributed to the racing association for payment to the state as a license fee, 2 percent retained by the satellite wagering facility as a commission, 2.5 percent or the amount of actual operating expenses, as determined by the board, whichever is less, distributed to an organization described in Section 19608.2, and four-tenths of 1 percent deposited with the official registering agency pursuant to subdivision (a) of Section 19617.2 and shall thereafter be distributed in accordance with subdivisions (b) and (c) of Section 19617.2, and one-tenth of 1 percent distributed to the Equine Research Laboratory, School of Veterinary Medicine, University of California at Davis. It is the intent of the Legislature that the one-tenth of 1 percent of funds distributed to the Equine Research Laboratory shall supplement, and not supplant, other funding sources. Notwithstanding any other provision of law, on wagers made in the Counties of Orange and Los Angeles on thoroughbred races conducted in the County of Orange or Los Angeles, or both, the amount deducted for promotion of the satellite wagering program at satellite wagering facilities shall be one-half of 1 percent.

(b) For harness, quarter horse, Appaloosa, Arabian, or mixed breed meetings, 1 percent of the amount handled by the satellite wagering facility on conventional wagers and 1 percent on exotic wagers shall be distributed to the racing association for payment to the state as a license fee, for fair meetings, 1.5 percent of the amount handled by the satellite wagering facility on conventional wagers and 3 percent on exotic wagers shall be distributed to the racing association for payment to the state as a license fee, 2 percent retained by the satellite wagering facility as a commission, and 6 percent of the amount handled by the satellite wagering facility or the amount of actual operating expenses, as determined by the board, whichever is less, distributed to an organization described in Section 19608.2. In addition, in the case of quarter horses, four-tenths of 1 percent shall be distributed as breeders' awards to breeders of quarter horses pursuant to Section 19617.6; in the case of Appaloosas, four-tenths of 1 percent shall be distributed as breeders' awards to breeders of Appaloosas; in the case of Arabians, four-tenths of 1 percent shall be distributed as breeders' awards to breeders of Arabians; in the case of standardbreds, four-tenths of 1 percent shall

be distributed for the California Standardbred Sires Stakes Program pursuant to Section 19619; in the case of thoroughbreds, four-tenths of 1 percent shall be deposited with the official registering agency pursuant to subdivision (a) of Section 19617.2 and shall thereafter be distributed in accordance with subdivisions (b) and (c) of Section 19617.2; and one-tenth of 1 percent shall be distributed to the Equine Research Laboratory, School of Veterinary Medicine, University of California at Davis. It is the intent of the Legislature that the one-tenth of 1 percent of funds distributed to the Equine Research Laboratory shall supplement, and not supplant, other funding sources.

(c) In addition, for thoroughbred meetings and harness, quarter horse, Appaloosa, mixed breed, or fair meetings, 1 percent shall be distributed to an organization described in Section 19608.2 for promotion of the program at satellite wagering facilities. Any of the promotion funds that are not distributed in the year in which they are collected may be distributed in the following year. If promotion funds distributed in any year exceed the amount collected for that year, the funds distributed in the following year shall be reduced by the excess amount. Additionally, thirty-three hundredths of 1 percent of the total amount handled by the satellite wagering facility shall be paid to the city or county in which the satellite wagering facility is located pursuant to Section 19610.3 or 19610.4.

(d) Notwithstanding any other provision of law, a racing association is responsible for the payment of the state license fee as required by this section.

SEC. 7. Section 19605.73 of the Business and Professions Code, as amended by Chapter 317 of the Statutes of 1991, is repealed.

SEC. 8. Section 19605.9 of the Business and Professions Code is amended to read:

19605.9. (a) Except as provided in subdivision (b), in the central and southern zones, all of the funds distributed for purses from satellite wagering facilities shall go to the purse program of the association conducting the racing meeting.

(b) Notwithstanding subdivision (a), all funds for distribution as purses at satellite wagering facilities which are racing fairs in the County of Los Angeles from wagering on thoroughbred horseracing conducted at the 22nd District Agricultural Association Fairgrounds shall be deposited in a separate account in the fund and, notwithstanding Section 13340 of the Government Code, are hereby continuously appropriated to the Department of Food and Agriculture for supplementing purses at fair meetings in Los Angeles and Orange Counties. The department shall distribute these funds on an equal basis to each racing fair in these counties for distribution in all nonstakes races and among all breeds. Commencing January 1, 1992, the funds distributed for purses from satellite wagering facilities pursuant to this subdivision shall not exceed the amount distributed during the 1990 calendar year. Any funds in excess of this amount shall be distributed as purses at the racing meeting

conducted by the association.

SEC. 9. Section 19606.1 of the Business and Professions Code is amended to read:

19606.1. (a) Except as otherwise provided in Section 19606.3, all revenues distributed to the state as license fees from satellite wagering facilities shall be deposited in a separate account in the fund and, notwithstanding Section 13340 of the Government Code, are continuously appropriated from that account to the Department of Food and Agriculture, for allocation by the Director of Food and Agriculture, in his or her discretion, for the following purposes, except that the concurrence of the Director of Finance shall be required for allocations pursuant to paragraphs (1), (2), and (3):

(1) For the repayment of the principal of, interest on, and costs of issuance of, and as security, including any coverage factor, pledged to the payment of, bonds issued or to be issued by a joint powers agency or other debt service or expense, including repayment of any advances made or security required by any provider of credit enhancement or liquidity for those bonds or other indebtedness or expenses of maintaining that credit enhancement or liquidity, incurred for the purpose of constructing or acquiring improvements at a fair's racetrack inclosure, satellite wagering facilities at fairs, health and safety repair projects, or handicapped access compliance projects at fairs or for the purpose of refunding bonds or other indebtedness incurred for those purposes. As used in this paragraph, "coverage factor" means revenues in excess of the amount necessary to pay debt service on the bonds or other indebtedness, up to an amount equal to 100 percent more than the amount of that debt service, which a joint powers agency, pursuant to the resolution or indenture under which the bonds or other indebtedness are or will be issued, pledges as additional security for the payment of that debt service or is required to have or maintain as a condition to the issuance of additional bonds or other indebtedness. Notwithstanding any other provision of law, the department may also commit any funds available for allocation under Article 10 (commencing with Section 19620) to complete projects funded under this paragraph in the priority described in this paragraph.

(2) For payment to the State Race Track Leasing Commission to be pledged for the repayment of debt necessary to construct a racetrack grandstand at the 22nd District Agricultural Association fairgrounds. This payment shall be made only if the Director of Food and Agriculture determines, annually, that all other pledged revenues have been applied to the repayment of that debt and have been determined by the director to be inadequate for that purpose.

(3) For the payment of expenses incurred in establishing and operating satellite wagering facilities at fairs.

(4) For health and safety repair projects at fairs, which includes fire and life safety improvement projects, California Code of Regulations compliance projects, and long-term deferred maintenance projects.

(5) For support of fairs generally.

(b) The Director of Food and Agriculture may not make an allocation for purposes of paragraphs (2) to (5), inclusive, of subdivision (a) until the payments required in any fiscal year pursuant to paragraph (1) of subdivision (a) have been funded.

(c) The payments required in any fiscal year for the purposes of paragraphs (1) to (3), inclusive, of subdivision (a) shall be funded before any transfer is made pursuant to subdivision (d).

(d) Except as otherwise provided in subdivision (c), when the revenues deposited in the separate account exceed eleven million dollars ($11,000,000) in any fiscal year, 98 percent of the amount in excess of eleven million dollars ($11,000,000) shall be transferred to the General Fund.

(e) All of the costs of administering the accounts created by subdivision (a) and Section 19606.3 shall be charged to the respective accounts.

SEC. 10. Section 19606.2 of the Business and Professions Code is repealed.

SEC. 11. Section 19610.7 is added to the Business and Professions Code, to read:

19610.7. Notwithstanding any other provision of this chapter, if the total revenues distributed to the state as license fees for deposit in the General Fund for the 1992–93 fiscal year in the central and southern zones, as determined by the board, do not equal or exceed the amount of total revenues distributed to the state as license fees for deposit in the General Fund for the 1990–91 fiscal year in the central and southern zones, the license fees in the central and southern zones shall be increased by one-quarter of 1 percent for meetings in the central and southern zones commencing during the following fiscal year.

SEC. 12. Section 19606.3 of the Business and Professions Code is amended to read:

19606.3. Up to 10 percent of all revenues distributed to racing associations for payment to the state as license fees from satellite wagering facilities located at fairs in the northern zone shall be deposited in a special account in the fund and, notwithstanding Section 13340 of the Government Code, are hereby continuously appropriated to the Department of Food and Agriculture for supplementing purses at fair meetings to achieve the purposes of Section 19606.4. The department shall annually determine the percentage of revenues payable to the special account under this section based on the amount necessary to achieve the purposes of Section 19606.4.

SEC. 13. Section 19612 of the Business and Professions Code is amended to read:

19612. (a) Except as otherwise provided, every association which conducts a quarter horse race meeting or a harness horse race meeting shall pay a daily license fee at the rate of 1 percent of its daily conventional and exotic parimutuel handle.

(b) With respect to quarter horse meetings, all funds remaining from the deductions provided in Sections 19491, 19491.5, and 19610 after distribution of the license fee, shall be distributed 55 percent as commissions and 45 percent as purses. With respect to harness meetings, except for meetings conducted pursuant to Section 19549.2, the funds remaining from deductions provided in Section 19610, after distribution of the license fee, shall be distributed 59.5 percent as commissions and 40.5 percent as purses. For meetings conducted pursuant to Section 19549.2, the funds remaining from deductions provided in Section 19610, after distribution of the license fee, shall be distributed 50 percent as commissions and 50 percent as purses.

(c) Every association which conducted a quarter horse or Arabian horseracing meeting in the southern zone during the daytime prior to January 1, 1979, and thereafter conducts the meeting at night, shall be entitled to the following license fee adjustment:

For each 1 percent that the association's average daily handle in the 1981 year, during the period from the commencement of the meeting to December 25, falls below its 1980 average daily handle during the same period, the amount of the license fee as set forth in subdivision (a) shall be reduced by 2 percent.

(d) Any association qualified to operate its meetings pursuant to Section 19612.6 shall be entitled to continue to distribute license fees, commissions, and purses as provided by that section.

(e) Notwithstanding subdivision (b), for every association which conducts a quarter horse meeting in the northern zone, the amount remaining after deduction of the state license fee shall be distributed between commissions and purses as agreed to by the association conducting the meeting and the organization representing the horsemen participating at the meeting. Every association conducting a quarter horse meeting in the northern zone may deduct an additional amount up to 1 percent of its conventional and exotic parimutuel pools to be distributed as commissions. The association may also deduct an additional 1 percent from the exotic parimutuel pools to be distributed as commissions and purses as agreed to by the association conducting the meeting and the organization representing the horsemen participating at the meeting.

SEC. 14. Section 19612.6 of the Business and Professions Code is amended to read:

19612.6. (a) (1) For harness and mixed meetings, the amount remaining after deduction of the state license fee shall be distributed equally between commissions and purses. For quarter horse, Appaloosa, Appaloosa invitational, and muleracing meetings, the amount remaining after deduction of the state license fee pursuant to Section 19612 shall be distributed between commissions and purses as agreed to by the association conducting the meeting and the organization representing the horsemen or mulemen participating in the meeting. For fair meetings conducted pursuant

to Section 19549, the amount remaining after deduction of the state license fee pursuant to Section 19612 shall be distributed 48 percent to commissions and 52 percent to purses.

(2) Every association which conducts a racing meeting pursuant to Section 19549 shall, in addition, deduct from its parimutuel pools the amount specified in subdivision (d) of Section 19614.

(b) If an association qualified to operate its meeting pursuant to this section conducts two separate programs of racing on any day, each such program shall be considered a separate racing day for purposes of determining the daily handle and computing the distribution of license fees, commissions, and purses thereon. For the purposes of this subdivision, a program shall consist of at least nine races.

(c) In addition to any deductions pursuant to this section, every association conducting a racing meeting pursuant to Section 19549.1 shall also deduct an additional 1 percent of its parimutuel pools to be distributed as commissions.

(d) In addition to any deductions pursuant to this section, every association conducting a racing meeting pursuant to Section 19549.1 shall also deduct an additional 2 percent of its exotic parimutuel pools to be distributed equally as commissions and purses.

SEC. 15. Section 19612.7 of the Business and Professions Code is repealed.

SEC. 16. Section 19612.8 of the Business and Professions Code is amended to read:

19612.8. Notwithstanding any other provision of law, any association conducting a racing meeting shall pay not less than the actual amount necessary to cover the costs for compensation, including any fringe benefits, to stewards and official veterinarians and to cover the costs for that racing meeting, as provided by the board under Section 19442.

SEC. 17. Section 4.5 of this bill incorporates amendments to Section 19605.6 of the Business and Professions Code proposed by both this bill and AB 669. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1992, but this bill becomes operative first, (2) each bill amends Section 19605.6 of the Business and Professions Code, and (3) this bill is enacted after AB 669, in which case Section 19605.6 of the Business and Professions Code, as amended by Section 4 of this bill, shall remain operative only until the operative date of AB 669, at which time Section 4.5 of this bill shall become operative.

SEC. 18. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to minimize reductions in state license fees, purses to horsemen, and revenues to racing associations resulting from declining attendance and handle occurring at horseracing meets in southern California, it is necessary that this act take effect

immediately.

CHAPTER 425

An act to amend and renumber Section 13202.7 of, and to add Section 13202.7 to, the Vehicle Code, relating to driving privileges.

[Approved by Governor September 18, 1991 Filed with Secretary of State September 19, 1991]

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

SECTION 1. Section 13202.7 of the Vehicle Code is amended and renumbered to read:

13202.8. The restrictions specified in Section 13202.5 for the violations specified in that section may include, but are not limited to, the installation and maintenance of a certified ignition interlock device pursuant to Article 4 (commencing with Section 23235) of Chapter 12 of Division 11. Any restriction is subject to the provisions of Section 13202.5 relating to restrictions.

SEC. 2. Section 13202.7 is added to the Vehicle Code, to read:

13202.7. (a) Any minor under the age of 18 years, but 13 years of age or older, who is an habitual truant within the meaning of Section 48262 of the Education Code, and is adjudged by the juvenile court to be a ward of the court under subdivision (b) of Section 601 of the Welfare and Institutions Code, may have his or her driving privilege suspended for one year by the court. If the minor does not yet have the privilege to drive, the court may order the department to delay issuing the privilege to drive for one year subsequent to the time the person becomes legally eligible to drive. However, if there is no further truancy in the 12-month period, the court, upon petition of the person affected, may modify the order imposing the delay of the driving privilege. For each successive time the minor is found to be an habitual truant, the court may suspend the minor's driving privilege for a minor possessing a driver's license, or delay the eligibility for the driving privilege for those not in possession of a driver's license, for one additional year.

(b) Whenever the juvenile court suspends a minor's driving privilege pursuant to subdivision (a), the court may require all driver's licenses held by the minor to be surrendered to the court. The court shall, within 10 days following the surrender of the license, transmit a certified abstract of the findings, together with any driver's licenses surrendered, to the department.

(c) When the juvenile court is considering suspending or delaying a minor's driving privilege pursuant to subdivision (a), the court shall consider whether a personal or family hardship exists that requires the minor to have a driver's license for his or her own, or a member of his or her family's, employment or for medically related

purposes.

(d) The suspension, restriction, or delay of a minor's driving privilege pursuant to this section shall be in addition to any other penalty imposed by law on the minor.

CHAPTER 426

An act to add and repeal Sections 8396 and 8397 of the Fish and Game Code, relating to fish, and making an appropriation therefor.

[Approved by Governor September 18, 1991. Filed with Secretary of State September 19, 1991.]

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

SECTION 1. Section 8396 is added to the Fish and Game Code, to read:

8396. (a) Any person taking sea cucumbers for commercial purposes shall obtain a sea cucumber permit and shall be in possession of the permit when engaged in those activities.

(b) The department shall issue permits to the owner or operator of a currently registered commercial fishing vessel who has qualified pursuant to subdivision (c).

(c) To qualify for a permit an applicant shall meet both of the following criteria:

(1) Prove to the director's satisfaction that as the owner or operator of a legally registered commercial fishing vessel, he or she landed a minimum of 50 pounds of sea cucumbers during any calendar year, or portion thereof, from January 1, 1988, to June 30, 1991, inclusive.

(2) Landings used to qualify applicants for sea cucumber permits shall have been reported to the department as required by Section 8043, with the name of the applicant shown on the receipt.

(d) In order to renew a sea cucumber permit, an applicant shall have been issued a sea cucumber permit in the immediately preceding year and be able to demonstrate that he or she landed a minimum of 100 pounds of sea cucumbers from April 1 through March 31 during one of the three years immediately preceding the permit year.

(e) Permits are nontransferable. Not more than one permit shall be issued to any person.

(f) The fee for sea cucumber permits shall be two hundred fifty dollars ($250).

(g) Sea cucumber permits shall be valid from April 1 through March 31 of the following year, or if issued after the beginning of such term, for the remainder thereof.

(h) Each permittee shall complete and submit an accurate record of all sea cucumber fishing activities on forms provided by the

department.

(i) Permitholders, their agents, employees, or those acting under their direction or control, shall comply with all applicable provisions of this code relating to commercial fishing and any regulations adopted pursuant thereto.

(j) This section shall remain in effect only until January 1, 1995, and on that date is repealed, unless a later enacted statute, which is enacted before January 1, 1995, deletes or extends that date.

SEC. 2. Section 8397 is added to the Fish and Game Code, to read:

8397. (a) Any person taking hagfish for commercial purposes shall obtain a hagfish permit and shall be in possession of the permit when engaged in those activities.

(b) The department shall issue permits to the owner or operator of a currently registered commercial fishing vessel who has qualified pursuant to subdivision (c).

(c) To qualify for a permit an applicant shall meet both of the following criteria:

(1) Prove to the director's satisfaction that as the owner or operator of a legally registered commercial fishing vessel, he or she landed a minimum of 500 pounds of hagfish during the 1988, 1989, or 1990 calendar year.

(2) Landings used to qualify applicants for hagfish permits shall have been reported to the department as required by Section 8043, with the name of the applicant shown on the receipt.

(d) In order to renew a hagfish permit, an applicant shall have been issued a hagfish permit in the immediately preceding year and be able to demonstrate that he or she landed a minimum of 500 pounds of hagfish from April 1 through March 31 during one of the two years immediately preceding the permit year.

(e) Permits are nontransferable. Not more than one permit shall be issued to any person.

(f) The fee for hagfish permits shall be two hundred fifty dollars ($250).

(g) Hagfish permits shall be valid from April 1 through March 31 of the following year, or if issued after the beginning of such term, for the remainder thereof.

(h) Each permittee shall complete and submit an accurate record of all hagfish fishing activities on forms provided by the department.

(i) Hagfish may only be taken with traps, subject to Article 1 (commencing with Section 9000) of Chapter 4 except that a hagfish fisherman operating under a hagfish permit is not required to possess a general trap permit pursuant to Section 9001.

(2) The number of traps that may be possessed aboard and used by any fishing vessel operating under a hagfish permit shall not exceed 1,200 Korean traps or 300 of any other type of trap. No fishing vessel operating under a hagfish permit may possess both Korean traps and other types of traps aboard the vessel at the same time. As used in this paragraph, "Korean trap" means a molded plastic cylinder, not exceeding 6 inches in diameter and 24 inches in length.

(i) Permitholders, their agents or employees, or those acting under their direction or control, shall comply with all applicable provisions of this code relating to commercial fishing, and any regulations adopted pursuant thereto.

(j) This section shall remain in effect only until January 1, 1995, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1995, deletes or extends that date.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 427

An act to add and repeal Section 4010.75 of the Health and Safety Code, relating to public water systems, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 18, 1991. Filed with Secretary of State September 19, 1991.]

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

SECTION 1. Section 4010.75 is added to the Health and Safety Code, to read:

4010.75. For public water systems with less than 200 service connections, except as provided in Section 4010.9, the local health officer shall be responsible for the enforcement of this chapter. For the purposes of this chapter, unless the context otherwise requires, and whenever enforcement activities involve public water systems with less than 200 service connections, the local health officer shall act for the department, except that variances and exemptions may only be granted or revoked by the local health officer following the procedures as provided in Sections 4027.5 and 4031 subject to the approval of the department.

Annual permit fees may be prescribed by the local governing body in accord with Section 510 to pay the reasonable expenses of the local health officer in carrying out this chapter and regulations adopted thereunder.

This section does not apply to state small water systems regulated by Section 4010.8.

This section shall become inoperative on July 1, 1992, and, as of

January 1, 1993, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1993, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

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

In order to ensure local enforcement of water standards for public water systems with less than 200 service connections until the State Department of Health Services assumes that responsibility July 1, 1992, it is necessary that this bill take effect immediately.

CHAPTER 428

An act relating to the Public Utilities Commission, and making an appropriation therefor.

[Approved by Governor September 18, 1991. Filed with Secretary of State September 19, 1991.]

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

SECTION 1. The Public Utilities Commission, in coordination with the Energy Resources Conservation and Development Commission, shall conduct an investigation, including workshops, on propane service, rates and safety, and on the use of propane as a clean transportation fuel. The commission shall report the results of the workshops and its recommendations regarding regulation of propane service, rates, and safety, and the use of propane as a clean transportation fuel, to the Legislature on or before December 31, 1992.

SEC. 2. The sum of sixty-four thousand dollars ($64,000) is appropriated from the Public Utilities Commission Reimbursement Account to the Public Utilities Commission for the purposes of this act.

CHAPTER 429

An act to add Section 14132.36 to the Welfare and Institutions Code, relating to Medi-Cal, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 18, 1991. Filed with Secretary of State September 19, 1991.]

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

SECTION 1. Section 14132.36 is added to the Welfare and Institutions Code, to read:

14132.36. (a) To the extent that federal financial participation becomes available, residential care for alcohol and drug exposed pregnant women and women in the postpartum perinatal period is a covered service under this chapter, subject to utilization controls.

(b) For purposes of this section, "residential care" shall consist of those services specified in the interagency agreement between the State Department of Alcohol and Drug Programs and the State Department of Health Services.

(c) The State Department of Alcohol and Drug Programs shall be the agency responsible for establishing the residential care programs. The department shall, for the purposes of this section, provide funds from the department's budget for the purpose of obtaining federal matching funds under Title XIX of the Social Security Act (42 U.S.C. Sec. 1396, and following) for the residential care programs.

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

In order to ensure delivery of alcohol and drug recovery services to pregnant women and women in the postpartum perinatal period at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 430

An act to amend Section 1465.5 of the Penal Code, relating to assessments, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 18, 1991 Filed with Secretary of State September 19, 1991]

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

SECTION 1. Section 1465.5 of the Penal Code is amended to read:

1465.5. An assessment of two dollars ($2) for every ten dollars ($10) or fraction thereof, for every fine, forfeiture, or parking penalty imposed and collected pursuant to Section 42001.5 of the Vehicle Code for violation of Section 22507.8 of the Vehicle Code, may be imposed by each county upon the adoption of a resolution by the board of supervisors. An assessment imposed by this section shall be collected and disbursed as provided in Section 9394.5 of the Welfare and Institutions Code.

(b) This section shall remain in effect only until January 1, 1995, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1995, deletes or extends that date.

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

To offset budget reductions to linkages and prevent premature and inappropriate institutionalization of frail elderly and functionally impaired adults, it is necessary that this act take effect immediately.

CHAPTER 431

An act to amend Sections 2099.5 and 2154 of the Business and Professions Code, relating to osteopathic physicians and surgeons.

[Approved by Governor September 18, 1991 Filed with Secretary of State September 19, 1991]

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

SECTION 1. Section 2099.5 of the Business and Professions Code is amended to read:

2099.5. Notwithstanding any other provision of law, an originating license for an osteopathic physician's and surgeon's certificate issued by the Board of Osteopathic Examiners shall require the following:

(a) A written examination, as prepared by the National Board of Osteopathic Examiners or by the Board of Osteopathic Examiners which includes osteopathic principles and practices and all applicable provisions of Article 4 (commencing with Section 2080). The board may utilize an examination prepared by the Federation of State Medical Boards until December 31, 1993. An applicant shall successfully complete the written examination, as determined by the board.

(b) An oral, clinical, and practical examination administered by

the board which the applicant shall successfully complete, as determined by the board.

SEC. 1.5. Section 2099.5 of the Business and Professions Code is amended to read:

2099.5. Notwithstanding any other provision of law, an originating license for an osteopathic physician's and surgeon's certificate issued by the Osteopathic Medical Board of California shall require the following:

(a) A written examination, as prepared by the National Board of Osteopathic Examiners or by the Osteopathic Medical Board of California which includes osteopathic principles and practices and all applicable provisions of Article 4 (commencing with Section 2080). The board may utilize an examination prepared by the Federation of State Medical Boards until December 31, 1993. An applicant shall successfully complete the written examination, as determined by the board.

(b) An oral, clinical, and practical examination administered by the board which the applicant shall successfully complete, as determined by the board.

SEC. 2. Section 2154 of the Business and Professions Code is amended to read:

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

(a) The applicant holds an unlimited license to engage in the practice of osteopathic medicine in another state whose written licensing examination is recognized and approved by the board to be equivalent in content to that administered in California. For the purposes of this section, the board may recognize and approve as equivalent an examination prepared by the Federation of State Medical Boards if an applicant had been licensed in another state as a result of the successful completion, prior to December 31, 1993, of that examination. In lieu of a board recognized and approved state written license examination, the board may require the applicant to successfully complete a special examination in general medicine and osteopathic principles as prepared by the National Board of Osteopathic Medical Examiners or the Board of Osteopathic Examiners. The board may utilize an examination prepared by the Federation of State Medical Boards until December 31, 1993.

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

(c) The applicant successfully completes an oral, clinical, and practical examination, as determined by the board.

SEC. 2.5. Section 2154 of the Business and Professions Code is

amended to read:

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

(a) The applicant holds an unlimited license to engage in the practice of osteopathic medicine in another state whose written licensing examination is recognized and approved by the board to be equivalent in content to that administered in California. For the purposes of this section, the board may recognize and approve as equivalent an examination prepared by the Federation of State Medical Boards if an applicant had been licensed in another state as a result of the successful completion, prior to December 31, 1993, of that examination. In lieu of a board recognized and approved state written license examination, the board may require the applicant to successfully complete a special examination in general medicine and osteopathic principles as prepared by the National Board of Osteopathic Medical Examiners, or the Osteopathic Medical Board of California. The board may utilize an examination prepared by the Federation of State Medical Boards until December 31, 1993.

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

(c) The applicant successfully completes an oral, clinical, and practical examination, as determined by the board.

SEC. 3. Section 1.5 of this bill incorporates amendments to Section 2099.5 of the Business and Professions Code proposed by both this bill and AB 1332. It shall only become operative if (1) both bills are enacted and become effective January 1, 1992, (2) each bill amends Section 2099.5 of the Business and Professions Code, and (3) this bill is enacted after AB 1332, in which case Section 1 of this bill shall not become operative.

SEC. 4. Section 2.5 of this bill incorporates amendments to Section 2154 of the Business and Professions Code proposed by both this bill and AB 1332. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1992, (2) each bill amends Section 2154 of the Business and Professions Code, and (3) this bill is enacted after AB 1332, in which case Section 2 of this bill shall not become operative.

CHAPTER 432

An act to amend Section 47 of the Civil Code, relating to privilege.

[Approved by Governor September 18, 1991. Filed with Secretary of State September 19, 1991.]

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

SECTION 1. Section 47 of the Civil Code is amended to read:

47. A privileged publication or broadcast is one made:

(a) In the proper discharge of an official duty.

(b) In any (1) legislative or (2) judicial proceeding, or (3) in any other official proceeding authorized by law, or (4) in the initiation or course of any other proceeding authorized by law and reviewable pursuant to Chapter 2 (commencing with Section 1084) of Title 1 of Part 3 of the Code of Civil Procedure, except as follows:

(1) An allegation or averment contained in any pleading or affidavit filed in an action for marital dissolution or legal separation made of or concerning a person by or against whom no affirmative relief is prayed in the action shall not be a privileged publication or broadcast as to the person making the allegation or averment within the meaning of this section unless the pleading is verified or affidavit sworn to, and is made without malice, by one having reasonable and probable cause for believing the truth of the allegation or averment and unless the allegation or averment is material and relevant to the issues in the action.

(2) This subdivision does not make privileged any communication made in furtherance of an act of intentional destruction or alteration of physical evidence undertaken for the purpose of depriving a party to litigation of the use of that evidence, whether or not the content of the communication is the subject of a subsequent publication or broadcast which is privileged pursuant to this section. As used in this paragraph, "physical evidence" means evidence specified in Section 250 of the Evidence Code or evidence that is property of any type specified in Section 2031 of the Code of Civil Procedure.

(c) In a communication, without malice, to a person interested therein, (1) by one who is also interested, or (2) by one who stands in such a relation to the person interested as to afford a reasonable ground for supposing the motive for the communication to be innocent, or (3) who is requested by the person interested to give the information.

(d) By a fair and true report in a public journal, of (1) a judicial, (2) legislative, or (3) other public official proceeding, or (4) of anything said in the course thereof, or (5) of a verified charge or complaint made by any person to a public official, upon which complaint a warrant has been issued.

(e) By a fair and true report of (1) the proceedings of a public meeting, if the meeting was lawfully convened for a lawful purpose

and open to the public, or (2) the publication of the matter complained of was for the public benefit.

CHAPTER 433

An act to add Section 3562.1 to the Government Code, relating to employees.

[Approved by Governor September 18, 1991. Filed with Secretary of State September 19, 1991]

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

SECTION 1. Section 3562.1 is added to the Government Code, to read:

3562.1. The California State University may meet and confer with the employee organization selected as the exclusive representative of appropriate units at the university on the establishment of flexible benefit plans. Any agreement between the university and an employee organization which requires the expenditure of funds for a flexible benefit program is not subject to legislative approval if funds otherwise appropriated to the California State University for employee compensation are sufficient to finance the flexible benefit plan.

CHAPTER 434

An act to amend Section 14021.5 of the Welfare and Institutions Code, relating to Medi-Cal, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 18, 1991 Filed with Secretary of State September 19, 1991.]

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

SECTION 1. Section 14021.5 of the Welfare and Institutions Code is amended to read:

14021.5. (a) Notwithstanding any other provision of law, rates for reimbursing Short-Doyle mental health and drug services allowable under the Medi-Cal program and rendered to Medi-Cal beneficiaries under the Short-Doyle program shall continue to be based on the upper limits allowable under federal law and regulations for services provided prior to July 1, 1980, on the lower of reasonable cost and customary charges for services provided July 1, 1980, through June 30, 1982, and on the lowest of reasonable cost, customary charges, and rates paid by the Short-Doyle program for

services provided July 1, 1982, through June 30, 1984.

(b) The Legislature hereby states and declares that this section does not constitute a change in, but is declaratory of, existing law and that rates for reimbursing Short-Doyle mental health and drug services to Medi-Cal beneficiaries under the Short-Doyle program in previous fiscal years were based upon the lower of reasonable costs or customary charges.

(c) The State Department of Health Services, after consulting with the State Department of Mental Health and the State Department of Alcohol and Drug Programs, in regard to their respective programs, shall promulgate emergency regulations relating to claims submission and establishing rates and a ratesetting methodology for determining reimbursement of Short-Doyle mental health and drug services allowable under the Medi-Cal program and rendered to Medi-Cal beneficiaries under the State Department of Mental Health and the State Department of Alcohol and Drug Programs' programs respectively. The methodology and rates shall reflect the most recently completed cost reports and shall be effective commencing July 1, 1984.

(d) Notwithstanding any other provision of law, rates for reimbursing Short-Doyle mental health services allowable under the Medi-Cal program and rendered to Medi-Cal beneficiaries under the programs administered by the State Department of Mental Health shall be effective from July 1 through June 30 of the fiscal year in which these rates are established.

(e) Notwithstanding any other provision of law, rates for reimbursing drug services allowable under the Medi-Cal program and rendered to Medi-Cal beneficiaries under the programs administered by the State Department of Alcohol and Drug Programs shall be effective from July 1 through June 30 of the fiscal year in which these rates are established.

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

In order to avoid delay in the provision of treatment for mentally disabled clients, and to ensure continuity and adequacy of treatment for these clients, it is necessary that this act take effect immediately.

CHAPTER 435

An act to amend Sections 1605, 2962, 2964, 2970, and 2976 of the Penal Code, and to amend Section 4117 of the Welfare and Institutions Code, relating to prisoners.

[Approved by Governor September 18, 1991. Filed with Secretary of State September 19, 1991.]

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

SECTION 1. Section 1605 of the Penal Code is amended to read:

1605. (a) In accordance with Section 1615 of this code and Section 5709.8 of the Welfare and Institutions Code, the State Department of Mental Health shall be responsible for the supervision of persons placed on outpatient status under this title. The State Department of Mental Health shall designate, for each county or region comprised of two or more counties, a community program director who shall be responsible for administering the community treatment programs for persons committed from that county or region under the provisions specified in Section 1600.

(b) The State Department of Mental Health shall notify in writing the superior court, the district attorney, the county public defender or public defense agency, and the county mental health director of each county as to the person designated to be the community program director for that county, and timely written notice shall be given whenever a new community program director is to be designated.

(c) The community program director shall be the outpatient treatment supervisor of persons placed on outpatient status under this title. The community program director may delegate the outpatient treatment supervision responsibility to a designee.

(d) The outpatient treatment supervisor shall, at 90-day intervals following the beginning of outpatient treatment, submit to the court, the prosecutor and defense counsel, and to the community program director, where appropriate, a report setting forth the status and progress of the defendant.

SEC. 2. Section 2962 of the Penal Code is amended to read:

2962. As a condition of parole, a prisoner who meets the following criteria shall be required to be treated by the State Department of Mental Health, and the State Department of Mental Health shall provide the necessary treatment:

(a) The prisoner has a severe mental disorder that is not in remission or cannot be kept in remission without treatment.

The term "severe mental disorder" means an illness or disease or condition that substantially impairs the person's thought, perception of reality, emotional process, or judgment; or which grossly impairs behavior; or that demonstrates evidence of an acute brain syndrome for which prompt remission, in the absence of treatment, is unlikely.

The term "severe mental disorder" as used in this section does not include a personality or adjustment disorder, epilepsy, mental retardation or other developmental disabilities, or addiction to or abuse of intoxicating substances.

The term "remission" means a finding that the overt signs and symptoms of the severe mental disorder are controlled either by psychotropic medication or psychosocial support. A person "cannot be kept in remission without treatment" if during the year prior to the question being before the Board of Prison Terms or a trial court, he or she has been in remission and he or she has been physically violent, except in self-defense, or he or she has made a serious threat of substantial physical harm upon the person of another so as to cause the target of the threat to reasonably fear for his or her safety or the safety of his or her immediate family, or he or she has intentionally caused property damage, or he or she has not voluntarily followed the treatment plan. In determining if a person has voluntarily followed the treatment plan, the standard shall be whether the person has acted as a reasonable person would in following the treatment plan.

(b) The severe mental disorder was one of the causes of or was an aggravating factor in the commission of a crime for which the prisoner was sentenced to prison.

(c) The prisoner has been in treatment for the severe mental disorder for 90 days or more within the year prior to the prisoner's parole or release.

(d) (1) Prior to release on parole, the person in charge of treating the prisoner and a practicing psychiatrist or psychologist from the State Department of Mental Health have evaluated the prisoner at a facility of the Department of Corrections, and a chief psychiatrist of the Department of Corrections has certified to the Board of Prison Terms that the prisoner has a severe mental disorder, that the disorder is not in remission, or cannot be kept in remission without treatment, that the severe mental disorder was one of the causes or was an aggravating factor in the prisoner's criminal behavior, that the prisoner has been in treatment for the severe mental disorder for 90 days or more within the year prior to his or her parole release day, that the prisoner used force or violence or caused serious bodily injury in committing the crime referred to in subdivision (b), and that by reason of his or her severe mental disorder the prisoner represents a substantial danger of physical harm to others. For prisoners being treated by the State Department of Mental Health pursuant to Section 2684, the certification shall be by a chief psychiatrist of the Department of Corrections, and the evaluation shall be done at a state hospital by the person at the state hospital in charge of treating the prisoner and a practicing psychiatrist or psychologist from the Department of Corrections.

(2) If the professionals doing the evaluation pursuant to paragraph (1) do not concur that (1) the prisoner has a severe mental disorder, or (2) that the disorder is not in remission or cannot

be kept in remission without treatment, or (3) that the severe mental disorder was a cause of, or aggravated, the prisoner's criminal behavior, and a chief psychiatrist has certified the prisoner to the Board of Prison Terms pursuant to this paragraph, then the Board of Prison Terms shall order a further examination by two independent professionals, as provided for in Section 2978.

(3) Only if both independent professionals who evaluate the prisoner pursuant to paragraph (2) concur with the chief psychiatrist's certification of the issues described in paragraph (2), shall this subdivision be applicable to the prisoner. The professionals appointed pursuant to Section 2978 shall inform the prisoner that the purpose of their examination is not treatment but to determine if the prisoner meets certain criteria to be involuntarily treated as a mentally disordered offender. It is not required that the prisoner appreciate or understand that information.

(e) The crime referred to in subdivision (b) was a crime in which the prisoner used force or violence, or caused serious bodily injury as defined in paragraph (5) of subdivision (f) of Section 243.

(f) As used in this chapter, "substantial danger of physical harm" does not require proof of a recent overt act.

SEC. 3. Section 2964 of the Penal Code is amended to read:

2964. (a) The treatment required by Section 2962 shall be inpatient unless the State Department of Mental Health certifies to the Board of Prison Terms that there is reasonable cause to believe the parolee can be safely and effectively treated on an outpatient basis, in which case the Board of Prison Terms shall permit the State Department of Mental Health to place the parolee in an outpatient treatment program specified by the State Department of Mental Health. Any prisoner who is to be required to accept treatment pursuant to Section 2962 shall be informed in writing of his or her right to request a hearing pursuant to Section 2966. Prior to placing a parolee in a local outpatient program, the State Department of Mental Health shall consult with the local outpatient program as to the appropriate treatment plan. Notwithstanding any other law, a parolee ordered to have outpatient treatment pursuant to this section may be placed in an outpatient treatment program used to provide outpatient treatment under Title 15 (commencing with Section 1600) of Part 2, but the procedural provisions of Title 15 shall not apply. The community program director or a designee of an outpatient program used to provide treatment under Title 15 in which a parolee is placed, may place the parolee, or cause the parolee to be placed, in a secure mental health facility if the parolee can no longer be safely or effectively treated in the outpatient program, and until the parolee can be safely and effectively treated in the program. Upon the request of the community program director or a designee, a peace officer shall take the parolee into custody and transport the parolee, or cause the parolee to be taken into custody and transported, to a facility designated by the community program director, or a designee, for confinement under this section. Within

15 days after placement in a secure facility the State Department of Mental Health shall conduct a hearing on whether the parolee can be safely and effectively treated in the program unless the patient or the patient's attorney agrees to a continuance, or unless good cause exists that prevents the State Department of Mental Health from conducting the hearing within that period of time. If good cause exists, the hearing shall be held within 21 days after placement in a secure facility. For purposes of this section, "good cause" means the inability to secure counsel, an interpreter, or witnesses for the hearing within the 15-day time period. Before deciding to seek revocation of the parole of a parolee receiving mental health treatment pursuant to Section 2962, and return him or her to prison, the parole officer shall consult with the director of the parolee's outpatient program. Nothing in this section shall prevent hospitalization pursuant to Section 5150, 5250, or 5353 of the Welfare and Institutions Code.

(b) If the State Department of Mental Health has not placed a parolee on outpatient treatment within 60 days after receiving custody of the parolee or after parole is continued pursuant to Section 3001, the parolee may request a hearing before the Board of Prison Terms, and the board shall conduct a hearing to determine whether the prisoner shall be treated as an inpatient or an outpatient. At the hearing, the burden shall be on the State Department of Mental Health to establish that the prisoner requires inpatient treatment as described in this subdivision. If the prisoner or any person appearing on his or her behalf at the hearing requests it, the board shall appoint two independent professionals as provided for in Section 2978.

SEC. 4. Section 2970 of the Penal Code is amended to read:

2970. Not later than 180 days prior to the termination of parole, or release from prison if the prisoner refused to agree to treatment as a condition of parole as required by Section 2962, unless good cause is shown for the reduction of that 180-day period, if the prisoner's severe mental disorder is not in remission or cannot be kept in remission without treatment, the medical director of the state hospital which is treating the parolee, or the community program director in charge of the parolee's outpatient program, or the Director of Corrections, shall submit to the district attorney of the county in which the parolee is receiving outpatient treatment, or for those in prison or in a state mental hospital, the district attorney of the county of commitment, his or her written evaluation on remission. If requested by the district attorney, the written evaluation shall be accompanied by supporting affidavits.

The district attorney may then file a petition with the superior court for continued involuntary treatment for one year. The petition shall be accompanied by affidavits specifying that treatment, while the prisoner was released from prison on parole, has been continuously provided by the State Department of Mental Health either in a state hospital or in an outpatient program. The petition

shall also specify that the prisoner has a severe mental disorder, that the severe mental disorder is not in remission or cannot be kept in remission if the person's treatment is not continued, and that, by reason of his or her severe mental disorder, the prisoner represents a substantial danger of physical harm to others.

SEC. 5. Section 2976 of the Penal Code is amended to read:

2976. (a) The cost of inpatient or outpatient treatment under Section 2962 or 2972 shall be a state expense while the person is under the jurisdiction of the Department of Corrections or the State Department of Mental Health.

(b) Any person placed outside of a facility of the Department of Corrections for the purposes of inpatient treatment under this article shall not be deemed to be released from imprisonment or from the custody of the Department of Corrections prior to the expiration of the maximum term of imprisonment of the person.

SEC. 6. Section 4117 of the Welfare and Institutions Code is amended to read:

4117. (a) Whenever a trial is had of any person charged with escape or attempt to escape from a state hospital, whenever a hearing is had on the return of a writ of habeas corpus prosecuted by or on behalf of any person confined in a state hospital except in a proceeding to which Section 5110 applies, whenever a hearing is had on a petition under Section 1026.2, subdivision (b) of Section 1026.5, Section 2972 of the Penal Code, Section 7361 of this code, or former Section 6316.2 of this code for the release of a person confined in a state hospital, and whenever a person confined in a state hospital is tried for any crime committed therein, the county clerk of the county in which the trial or hearing is had shall make out a statement of all mental health treatment costs and shall make out a separate statement of all nontreatment costs incurred by the county for investigation and other preparation for the trial or hearing, and the actual trial or hearing, all costs of maintaining custody of the patient and transporting him or her to and from the hospital, and costs of appeal, which statements shall be properly certified by a judge of the superior court of that county and the statement of mental treatment costs shall be sent to the State Department of Mental Health and the statement of all nontreatment costs shall be sent to the Controller for approval. After approval, the department shall cause the amount of mental health costs incurred on or after July 1, 1987, to be paid to the county mental health director or his or her designee where the trial or hearing was held out of the money appropriated for this purpose by the Legislature. In addition the Controller shall cause the amount of all nontreatment costs incurred on and after July 1, 1987, to be paid out of the money appropriated by the Legislature, to the county treasurer of the county where the trial or hearing was had.

(b) Whenever a hearing is held pursuant to Section 1604, 1608, or 1609 of the Penal Code, all transportation costs to and from a state hospital or a facility designated by the community program director during the hearing shall be paid by the Controller as provided in this

subdivision. The county clerk of the county in which a hearing is held shall make out a statement of all transportation costs incurred by the county which statement shall be properly certified by a judge of the superior court of that county and sent to the Controller for approval. The Controller shall cause the amount of transportation costs incurred on and after July 1, 1987, to be paid to the county treasurer of the county where the hearing was had out of the money appropriated by the Legislature.

As used in this subdivision the community program director is the person designated pursuant to Section 1605 of the Penal Code.

CHAPTER 436

An act to amend Section 2884.2 of the Public Utilities Code, relating to telephones, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 18, 1991. Filed with Secretary of State September 19, 1991]

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

SECTION 1. Section 2884.2 of the Public Utilities Code is amended to read:

2884.2. (a) Except as specified in subdivision (b), the billing and collection practices of a telephone corporation for services rendered to or for an information service which contains harmful matter, as defined in subdivision (a) of Section 313 of the Penal Code, are not subject to the jurisdiction and control of the commission, notwithstanding Section 2884, but are a matter for contractual arrangement between the telephone corporation and the information provider.

(b) Nothing in subdivision (a) affects the commission's jurisdiction over billing and collection for any other information service.

(c) The commission may, on complaint or on its own motion, after a hearing, find and determine that circumstances including, but not limited to, anticompetitive results, require the exercise of jurisdiction and control by it over those matters removed from its jurisdiction and control by subdivision (a), and may then exercise that jurisdiction and control.

(d) Subdivision (a) applies only to that class of information-access telephone service furnished within or between service areas, as defined in Section 230.3, through the use of either a "976" prefix or a "900" access code telephone number, and applies only to billing and collection services in that class of service.

(e) The commission shall prepare and submit to the Legislature, on or before January 1, 1990, and annually thereafter, a report on all

of the following:

(1) Any anticompetitive effects it finds and determines to have resulted from the implementation of this section.

(2) Any significant proposals for further deregulation made to the commission based on this section.

(3) The commission's findings and recommendations concerning the effectiveness and continuing need for this section.

(f) The commission may investigate and consider, for purposes of establishing telephone rates, revenues and expenses related to any billing or collection services rendered by a telephone corporation to or for an information provider.

(g) A telephone corporation shall, before refusing to provide billing and collection services for any information service, give the information provider of that service and the commission not less than 30 days' advance notice.

(h) If a telephone corporation elects to enter into a contractual arrangement to provide billing and collection services to an information provider, the telephone corporation shall provide those services to the information provider under the same terms, conditions, and rates that the service is offered to all other information providers contracting for the services. The telephone corporation shall provide copies of the contracts to the commission and, on request, to any other interested party.

(i) Notwithstanding Section 17024 of the Business and Professions Code, billing and collection services described in subdivision (a) are services subject to Part 2 (commencing with Section 16600) of Division 7 of that code. A person or firm claiming a violation of Section 17045 of that code, with respect to those services, may proceed in accordance with Article 4 (commencing with Section 17070) of Chapter 4 of Part 2 of Division 7 of that code, or pursue any other remedy available under law.

(j) This section shall become inoperative on July 1, 1993, and, as of January 1, 1994, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1994, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

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

In order to continue the operation of Section 2884.2 of the Public Utilities Code, and thereby continue in operation a statute governing essential telephone services, without interruption, it is necessary for this act to take effect immediately.

CHAPTER 437

An act to amend, repeal, and add Sections 1203.1f, 1208.5, and 2900.5 of, to add and repeal Sections 1208.2 and 1208.3 of, and to repeal and add Section 1203.1e to, the Penal Code, relating to alternative sentencing, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 18, 1991. Filed with Secretary of State September 19, 1991.]

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

SECTION 1. Section 1203.1e of the Penal Code is repealed.

SEC. 2. Section 1203.1e is added to the Penal Code, to read:

1203.1e. (a) In any case in which a defendant is ordered to serve a period of confinement in a county jail or other local detention facility, and the defendant is eligible to be released on parole by the county board of parole commissioners, the court shall, after a hearing, make a determination of the ability of the person to pay all or a portion of the reasonable cost of providing parole supervision. The reasonable cost of those services shall not exceed the amount determined to be the actual average cost of providing parole supervision.

(b) If the court determines that the person has the ability to pay all or part of the costs, the court may set the amount to be reimbursed and order the person to pay that sum to the county in the manner in which the court believes reasonable and compatible with the person's financial ability. In making a determination of whether a person has the ability to pay, the court shall take into account the amount of any fine imposed upon the person and any amount the person has been ordered to pay in restitution.

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

(c) For the purposes of this section, "ability to pay" means the overall capability of the person to reimburse the costs, or a portion of the costs, of providing parole supervision and shall include, but shall not be limited to, consideration of all of the following factors:

(1) Present financial position.

(2) Reasonably discernible future financial position. In no event shall the board consider a period of more than six months from the

date of the hearing for purposes of determining reasonably discernible future financial position.

(3) Likelihood that the person shall be able to obtain employment within the six-month period from the date of the hearing.

(4) Any other factor or factors which may bear upon the person's financial capability to reimburse the county for the costs.

(d) At any time during the pendency of the order made under this section, a person against whom an order has been made may petition the court to modify or vacate its previous order on the grounds of a change of circumstances with regard to the person's ability to pay. The court shall advise the person of this right at the time of making the order.

(e) All sums paid by any person pursuant to this section shall be deposited in the general fund of the county.

(f) The parole of any person shall not be denied or revoked in whole or in part based upon the inability or failure to pay under this section.

(g) The county board of parole commissioners shall not have access to offender financial data prior to the rendering of any parole decision.

(h) This section shall become operative on January 1, 1995.

SEC. 3. Section 1203.1f of the Penal Code is amended to read:

1203.1f. If practicable, the court shall consolidate the ability to pay determination hearings authorized pursuant to Sections 987.8, 1203.1b, and 1203.1c into one proceeding, and the determination of ability to pay made at the consolidated hearing may be used for all purposes relating to these listed sections.

This section shall remain operative until January 1, 1995, and as of that date is repealed.

SEC. 4. Section 1203.1f is added to the Penal Code, to read:

1203.1f. If practicable, the court shall consolidate the ability to pay determination hearings authorized pursuant to Sections 987.8, 1203.1b, 1203.1c, and 1203.1e into one proceeding, and the determination of ability to pay made at the consolidated hearing may be used for all purposes relating to these listed sections.

This section shall become operative on January 1, 1995.

SEC. 5. Section 1208.2 is added to the Penal Code, to read:

1208.2. (a) (1) This section shall apply to individuals authorized to participate in a work furlough program pursuant to Section 1208, or to individuals authorized to participate in an electronic home detention program pursuant to Section 1208.1, or to individuals authorized to participate in a county parole program pursuant to Article 3.5 (commencing with Section 3074) of Chapter 8 of Title 1 of Part 3.

(2) As used in this section, as appropriate, "administrator" means the work furlough administrator, county corrections administrator, county electronic home detention administrator, county board of parole commissioners, or county parole administrator.

(b) A board of supervisors which implements programs identified

in paragraph (1) of subdivision (a), may prescribe a program administrative fee and an application fee, that together do not exceed the pro rata cost of the program to which the prisoner is accepted, including both equipment and supervision costs.

(c) The administrator, or his or her designee, shall not consider a prisoner's ability or inability to pay all or a portion of the program fee for the purposes of granting or denying participation in any of the programs, and shall not have access to the prisoner's financial data prior to rendering a decision.

(d) For purposes of this section, "ability to pay" means the overall capability of the person to reimburse the costs, or a portion of the costs, of providing supervision and shall include, but shall not be limited to, consideration of all of the following factors:

(1) Present financial position.

(2) Reasonably discernible future financial position. In no event shall the administrator, or his or her designee, consider a period of more than six months from the date of acceptance into the program for purposes of determining reasonably discernible future financial position.

(3) Likelihood that the prisoner shall be able to obtain employment within the six-month period from the date of acceptance into the program.

(4) Any other factor that may bear upon the prisoner's financial capability to reimburse the county for the fees fixed pursuant to subdivision (b).

(e) The administrator, or his or her designee, may charge a prisoner the fee set by the board of supervisors or any portion of the fee, based on the prisoner's ability to pay, and may determine the method and frequency of payment. The administrator, or his or her designee, shall have the option to waive the fees for program supervision when deemed necessary, justified, or in the interests of justice. The fees charged for program supervision may be modified or waived at any time based on the changing financial position of the prisoner. All fees paid by prisoners for program supervision shall be deposited into the general fund of the county.

(f) No prisoner shall be denied consideration for, or be removed from, participation in any of the programs to which this section applies because of an inability to pay all or a portion of the program supervision fees. At any time during a prisoner's sentence, the prisoner may request that the administrator, or his or her designee, modify or suspend the payment of fees on the grounds of a change in circumstances with regard to the prisoner's ability to pay.

(g) If the prisoner and the administrator, or his or her designee, are unable to come to an agreement regarding the prisoner's ability to pay, or the amount which is to be paid, or the method and frequency with which payment is to be made, the administrator, or his or her designee, shall advise the appropriate court of the fact that the prisoner and administrator, or his or her designee, have not been able to reach agreement and the court shall then resolve the

disagreement by determining the prisoner's ability to pay, the amount which is to be paid, and the method and frequency with which payment is to be made.

(h) At the time a prisoner is approved for any of the programs to which this section applies, the administrator, or his or her designee, shall furnish the prisoner a written statement of the prisoner's rights in regard to the program for which the prisoner has been approved, including, but not limited to, both of the following:

(1) The fact that the prisoner cannot be denied consideration for or removed from participation in the program because of an inability to pay.

(2) The fact that if the prisoner is unable to reach agreement with the administrator, or his or her designee, regarding the prisoner's ability to pay, the amount which is to be paid, or the manner and frequency with which payment is to be made, that the matter shall be referred to the court to resolve the differences.

(i) This section shall remain operative until January 1, 1995, and as of that date is repealed.

SEC. 6. Section 1208.3 is added to the Penal Code, to read:

1208.3. The administrator is not prohibited by subdivision (c) of Section 1208.2 from verifying any of the following:

(a) That the prisoner is receiving wages at a rate of pay not less than the prevailing minimum wage requirement as provided for in subdivision (c) of Section 1208.

(b) That the prisoner is working a specified minimum number of required hours.

(c) That the prisoner is covered under an appropriate or suitable workers' compensation insurance plan as may otherwise be required by law.

The purpose of the verification shall be solely to insure that the prisoner's employment rights are being protected, that the prisoner is not being taken advantage of, that the job is suitable for the prisoner, and that the prisoner is making every reasonable effort to make a productive contribution to the community.

(d) This section shall remain operative until January 1, 1995, and as of that date is repealed.

SEC. 7. Section 1208.5 of the Penal Code is amended to read:

1208.5. The boards of supervisors of two or more counties having work furlough programs established pursuant to Section 1208, home detention programs established pursuant to Section 1208.1, or county parole programs established pursuant to Article 3.5 (commencing with Section 3074) of Chapter 8 of Title 1 of Part 3, may enter into agreements whereby a person sentenced to, or imprisoned in, the jail of one county, but regularly residing in another county or regularly employed in another county, may be transferred from the custody of the sheriff, administrator, as defined in paragraph (2) of subdivision (a) of Section 1208.2, or their designees, of the county in which he or she is confined, to the custody of the appropriate administrator of the county in which he or she resides or is employed,

in order that he or she may be enabled to continue in his or her regular employment or education in the other county through that county's work furlough program, home detention program, or county parole program. These agreements may make provision for the support of transferred persons by the county from which they are transferred. The board of supervisors of any county may, by ordinance, delegate the authority to enter into these agreements to the work furlough administrator, corrections administrator, county home detention program administrator, county board of parole commissioners, county parole administrator, or their designees.

This section shall remain operative until January 1, 1995, and as of that date is repealed.

SEC. 8. Section 1208.5 is added to the Penal Code, to read:

1208.5. The boards of supervisors of two or more counties having work furlough programs may enter into agreements whereby a person sentenced to, or imprisoned in, the jail of one county, but regularly residing in another county or regularly employed in another county, may be transferred by the sheriff of the county in which he or she is confined to the jail of the county in which he or she resides or is employed, in order that he or she may be enabled to continue in his or her regular employment or education in such other county through such county's work furlough program. Such agreement may make provision for the support of transferred persons by the county from which they are transferred. The board of supervisors of any county may, by ordinance, delegate the authority to enter into such agreements to the work furlough administrator.

This section shall become operative on January 1, 1995.

SEC. 9. Section 2900.5 of the Penal Code is amended to read:

2900.5. (a) In all felony and misdemeanor convictions, either by plea or by verdict, when the defendant has been in custody, including, but not limited to, any time spent in a jail, camp, work furlough facility, halfway house, rehabilitation facility, hospital, prison, juvenile detention facility, similar residential institution, or home detention program, all days of custody of the defendant, including days served as a condition of probation in compliance with a court order, and including days credited to the period of confinement pursuant to Section 4019, shall be credited upon his or her term of imprisonment, or credited to any fine which may be imposed, at the rate of not less than thirty dollars ($30) per day, or more, in the discretion of the court imposing the sentence. If the total number of days in custody exceeds the number of days of the term of imprisonment to be imposed, the entire term of imprisonment shall be deemed to have been served. In any case where the court has imposed both a prison or jail term of imprisonment and a fine, any days to be credited to the defendant shall first be applied to the term of imprisonment imposed, and thereafter the remaining days, if any, shall be applied to the fine.

(b) For the purposes of this section, credit shall be given only

where the custody to be credited is attributable to proceedings related to the same conduct for which the defendant has been convicted. Credit shall be given only once for a single period of custody attributable to multiple offenses for which a consecutive sentence is imposed.

(c) For the purposes of this section, "term of imprisonment" includes any period of imprisonment imposed as a condition of probation or otherwise ordered by a court in imposing or suspending the imposition of any sentence, and also includes any term of imprisonment, including any period of imprisonment prior to release on parole and any period of imprisonment and parole, prior to discharge, whether established or fixed by statute, by any court, or by any duly authorized administrative agency.

(d) It shall be the duty of the court imposing the sentence to determine the date or dates of any admission to and release from custody prior to sentencing, and the total number of days to be credited pursuant to this section. The total number of days to be credited shall be contained in the abstract of judgment provided for in Section 1213.

(e) It shall be the duty of any agency to which a person is committed to apply the credit provided for in this section for the period between the date of sentencing and the date the person is delivered to the agency.

(f) If a defendant serves time in a camp, work furlough facility, halfway house, rehabilitation facility, hospital, juvenile detention facility, similar residential facility, or home detention program in lieu of imprisonment in county jail, and the statute under which the defendant is sentenced requires a mandatory minimum period of time in jail, the time spent in these facilities or programs shall qualify as mandatory time in jail.

(g) This section shall remain operative until January 1, 1995, and as of that date is repealed.

SEC. 10. Section 2900.5 is added to the Penal Code, to read:

2900.5. (a) In all felony and misdemeanor convictions, either by plea or by verdict, when the defendant has been in custody, including but not limited to any time spent in a jail, camp, work furlough facility, halfway house, rehabilitation facility, hospital, prison, juvenile detention facility, or similar residential institution, all days of custody of the defendant, including days served as a condition of probation in compliance with a court order, and including days credited to the period of confinement pursuant to Section 4019, shall be credited upon his or her term of imprisonment, or credited to any fine which may be imposed, at the rate of not less than thirty dollars ($30) per day, or more, in the discretion of the court imposing the sentence. If the total number of days in custody exceeds the number of days of the term of imprisonment to be imposed, the entire term of imprisonment shall be deemed to have been served. In any case where the court has imposed both a prison or jail term of imprisonment and a fine, any days to be credited to the defendant

shall first be applied to the term of imprisonment imposed, and thereafter the remaining days, if any, shall be applied to the fine.

(b) For the purposes of this section, credit shall be given only where the custody to be credited is attributable to proceedings related to the same conduct for which the defendant has been convicted. Credit shall be given only once for a single period of custody attributable to multiple offenses for which a consecutive sentence is imposed.

(c) For the purposes of this section, "term of imprisonment" includes any period of imprisonment imposed as a condition of probation or otherwise ordered by a court in imposing or suspending the imposition of any sentence, and also includes any term of imprisonment, including any period of imprisonment prior to release on parole and any period of imprisonment and parole, prior to discharge, whether established or fixed by statute, by any court, or by any duly authorized administrative agency.

(d) It shall be the duty of the court imposing the sentence to determine the date or dates of any admission to, and release from, custody prior to sentencing and the total number of days to be credited pursuant to this section. The total number of days to be credited shall be contained in the abstract of judgment provided for in Section 1213.

(e) It shall be the duty of any agency to which a person is committed to apply the credit provided for in this section for the period between the date of sentencing and the date the person is delivered to the agency.

(f) This section shall become operative on January 1, 1995.

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

Because of increasing court congestion and the need for effective and timely imposition of fees for parole supervision, it is necessary that this act take effect immediately.

CHAPTER 438

An act to add Section 12829 to the Food and Agricultural Code, relating to economic poisons.

[Approved by Governor September 18, 1991. Filed with Secretary of State September 19, 1991.]

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

SECTION 1. Section 12829 is added to the Food and Agricultural Code, to read:

12829. If a person has a research authorization for an economic

poison issued pursuant to Section 6260 of Title 3 of the California Code of Regulations for the purpose of testing the economic poison, and the produce on which the economic poison was tested is required to be destroyed, any actual costs incurred by the commissioner to investigate and confirm the destruction of the produce shall be paid for by the person who has the research authorization. The costs charged by the commissioner shall not exceed one hundred twenty-five dollars ($125) per testsite. The board of supervisors of each county may adopt a fee schedule to cover the commissioner's costs under this section.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 439

An act to add Section 56326.5 to the Government Code, relating to local agency formation commissions.

[Approved by Governor September 18, 1991. Filed with Secretary of State September 19, 1991.]

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

SECTION 1. Section 56326.5 is added to the Government Code, to read:

56326.5. In Sacramento County, the commission shall consist of seven members, selected as follows:

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

(b) One representing the City of Sacramento who is a member of the city council, appointed by the mayor and confirmed by the city council. The mayor shall also appoint, subject to confirmation by the

council, an alternate member who is a member of the city council. The alternate member may serve and vote in place of the regular city member if the city member is absent or disqualifies himself or herself from participating in a meeting of the commission. If the office of the regular city member becomes vacant, the alternate member may serve and vote in place of the former regular city member until the appointment and qualification of a regular city member to fill the vacancy.

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

(d) Two representing special districts selected by an independent special district selection committee pursuant to Section 56332. The independent special district selection committee shall also designate one alternate member who shall be appointed and serve pursuant to Section 56332.

(e) One representing the general public, appointed by the other six members of the commission. The commission may also appoint an alternate public member who may serve and vote in the place of the regular public member if the regular public member is absent or disqualifies himself or herself from participating in a meeting of the commission. If the office of the regular public member becomes vacant, the alternate member may serve and vote in place of the former regular public member until the appointment and qualification of a regular public member to fill the vacancy.

The member initially selected to serve pursuant to subdivision (b) shall commence serving on or after January 1, 1992, on a date determined by the Mayor of the City of Sacramento, and shall serve for the remainder of the term of, and in place of, a member to be designated by the mayor, appointed pursuant to subdivision (b) of Section 56325.

SEC. 2. The City of Sacramento has the largest population of any city in the County of Sacramento, creating a unique set of circumstances which affects its role in the growth and development of urban areas. Due to these unique facts and circumstances applicable only to the County of Sacramento, the Legislature finds and declares that a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution. Special legislation is, therefore, necessary to be applicable only to the County of Sacramento.

CHAPTER 440

An act to amend Section 22790 of the Government Code, relating to retirement.

[Approved by Governor September 18, 1991. Filed with Secretary of State September 19, 1991.]

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

SECTION 1. Section 22790 of the Government Code, as amended by Chapter 199 of the Statutes of 1986, is amended to read:

22790. (a) The board may contract with carriers for health benefits plans for employees and annuitants and major medical plans or approve health benefit plans offered by employee organizations, provided that the carriers have operated successfully in the prepaid hospital and medical care field prior to the contracting for or approval thereof. The plans may include hospital benefits, surgical benefits, in-hospital medical benefits, outpatient benefits, and obstetrical benefits, and benefits offered by a bona fide church, sect, denomination or organization whose principles include healing entirely by prayer or spiritual means. The board shall contract with a sufficient number of carriers and plans that provide chiropractic services so that every employee and annuitant shall have a reasonable opportunity to enroll in a plan that provides chiropractic services without prior referral by a physician. The board may contract with health maintenance organizations approved under Title XIII of the federal Public Health Services Act (42 U.S.C. Sec. 201 et seq.).

(b) Notwithstanding any other provision of this part, the board also may contract with health plans offering unique or specialized health services.

(c) The board shall approve any employee association health benefits plan which was approved by the board in the 1987–88 contract year or any year prior to that date, provided the plan continues to meet the minimum standards prescribed by the board.

SEC. 2. Section 22790 of the Government Code, as amended by Chapter 1677 of the Statutes of 1990, is amended to read:

22790. (a) The board may contract with carriers for health benefits plans for employees and annuitants and major medical plans or approve health benefit plans offered by employee organizations, provided that the carriers have operated successfully in the prepaid hospital and medical care field prior to the contracting for or approval thereof. The plans may include hospital benefits, surgical benefits, in-hospital medical benefits, outpatient benefits, and obstetrical benefits, and benefits offered by a bona fide church, sect, denomination or organization whose principles include healing entirely by prayer or spiritual means. The board shall contract with a sufficient number of carriers and plans that provide chiropractic

services so that every employee and annuitant shall have a reasonable opportunity to enroll in a plan that provides chiropractic services without prior referral by a physician. The board may contract with health maintenance organizations approved under Title XIII of the federal Public Health Services Act (42 U.S.C. Sec. 201 et seq.).

(b) Notwithstanding any other provision of this part, the board also may contract with health plans offering unique or specialized health services. The board shall contract with one or more carriers or plans in order that state annuitants may have vision care benefits comparable to those provided state employees under plans contracted for by the Department of Personnel Administration. The vision care benefit plans shall each contain a proven nationwide network of providers in order to meet the needs of annuitants. The vision care benefit plans may only vary from the vision care benefit plan provided to state employees in the areas of deductibles and frequency of service.

(c) The board shall approve any employee association health benefits plan which was approved by the board in the 1987–88 contract year or any year prior to that date, provided the plan continues to meet the minimum standards prescribed by the board.

CHAPTER 441

An act to amend Sections 75.55 and 155.20 of the Revenue and Taxation Code, relating to property taxation.

[Approved by Governor September 25, 1991. Filed with Secretary of State September 26, 1991]

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

SECTION 1. Section 75.55 of the Revenue and Taxation Code is amended to read:

75.55. (a) A county board of supervisors may, by ordinance, provide for the cancellation of any supplemental tax bill in which the amount of taxes to be billed is less than the cost of administration. In no event shall any supplemental tax bill be canceled pursuant to this subdivision if the amount of taxes on that bill exceeds twenty dollars ($20), or fifty dollars ($50) in the case of eligible mobilehome accessories.

(b) Except where a county board of supervisors has adopted an ordinance pursuant to subdivision (a), a county board of supervisors may, by ordinance, provide for the cancellation by the assessor of any supplemental assessment where that assessment would result in an amount of taxes due which is less than the cost of assessing and collecting those taxes. In no event shall any supplemental assessment be canceled pursuant to this subdivision if the amount of taxes

resulting from that supplemental assessment would exceed twenty dollars ($20), or fifty dollars ($50) in the case of eligible mobilehome accessories.

(c) Notwithstanding this section, no taxable real property shall be exempt from property taxes assessed on the lien date, as provided in Section 2192, unless the property is otherwise exempt under this division.

(d) For purposes of this section, "eligible mobilehome accessories" means mobilehome accessories, as defined in Section 18008.5 of the Health and Safety Code, with a base year value or full value of five thousand dollars ($5,000) or less, that are installed on or added to mobilehomes purchased prior to July 1, 1980, and subject to vehicle license fees pursuant to Part 5 (commencing with Section 10701) of Division 2.

SEC. 2. Section 155.20 of the Revenue and Taxation Code is amended to read:

155.20. A county board of supervisors may exempt from property tax all real property with a base year value (as determined pursuant to Chapter 1 (commencing with Section 50) of Part 0.5, and personal property with a full value so low that, if not exempt, the total taxes, special assessments and applicable subventions on the property would amount to less than the cost of assessing and collecting them.

The board shall have no authority to exempt property with a base year value or full value of more than two thousand dollars ($2,000), except mobilehome accessories, as defined in Section 18008.5 of the Health and Safety Code, with a base year value or full value of five thousand dollars ($5,000) or less, that are installed on or added to mobilehomes that were purchased prior to July 1, 1980, and are subject to vehicle license fees pursuant to Part 5 (commencing with Section 10701) of Division 2.

In determining the level of the exemption, the board of supervisors shall determine at what level of exemption the costs of assessing the property and collecting taxes, assessments and subventions on such property exceeds the proceeds to be collected. The board shall establish the exemption level uniformly for classes of property. In making this determination, the board may consider the total taxes, special assessments and applicable subventions for the year of assessment only or for the year of assessment and succeeding years where cumulative revenues will not exceed the cost of assessments and collections.

This section does not apply to those real or personal properties enumerated in Section 52.

The exemption authorized by this section shall be adopted by the board on or before the lien date for the fiscal year to which the exemption is to apply and may, at the option of the board, continue in effect for succeeding fiscal years. Any revision or rescission of the exemption shall be adopted by the board on or before the lien date for the fiscal year to which that revision or rescission is to apply.

Nothing in this section shall authorize a county board of

supervisors to exempt new construction of two thousand dollars ($2,000) or less, unless the new base year value of the property, including this new construction, is two thousand dollars ($2,000) or less.

Nothing in this section shall authorize an assessor to exempt or not to enroll any property of any value, unless specifically authorized by a county board of supervisors, pursuant to this section.

SEC. 3. Notwithstanding Section 2229 of the Revenue and Taxation Code, the requirements of that section relating to any exemption of property for more than five years or for more than 75 percent of the value thereof, shall not apply to any exemption made by this act. In addition, no appropriation is made by this act and the state shall not reimburse any local agency for any property tax revenues lost by it pursuant to this act.

CHAPTER 442

An act to amend Sections 62.1 and 62.2 of the Revenue and Taxation Code, relating to mobilehomes, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 25, 1991. Filed with Secretary of State September 26, 1991]

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

SECTION 1. Section 62.1 of the Revenue and Taxation Code is amended to read:

62.1. Change in ownership shall not include either of the following:

(a) Any transfer, on or after January 1, 1985, of a mobilehome park to a nonprofit corporation, stock cooperative corporation, limited equity stock cooperative, or other entity formed by the tenants of a mobilehome park, for the purpose of purchasing the mobilehome park, provided that, with respect to any transfer of a mobilehome park on or after January 1, 1989, subject to this subdivision, the individual tenants who were renting at least 51 percent of the spaces in the mobilehome park prior to the transfer participate in the transaction through the ownership of an aggregate of at least 51 percent of the voting stock of, or other ownership or membership interests in, the entity which acquires the park.

(b) Any transfer or transfers on or after January 1, 1985, and before January 1, 1994, of rental spaces in a mobilehome park to the individual tenants of the rental spaces, provided that (1) at least 51 percent of the rental spaces are purchased by individual tenants renting their spaces prior to purchase, and (2) the individual tenants of these spaces form, within one year after the first purchase of a rental space by an individual tenant, a resident organization as

described in subdivision (k) of Section 50781 of the Health and Safety Code, to operate and maintain the park. If, on or after January 1, 1985, and before January 1, 1994, an individual tenant or tenants notify the county assessor of the intention to comply with the conditions set forth in the preceding sentence, any mobilehome park rental space which is purchased by an individual tenant in that mobilehome park during that period shall not be reappraised by the assessor. However, if all of the conditions set forth in the first sentence of this subdivision are not satisfied, the county assessor shall thereafter levy escape assessments for the spaces so transferred. This subdivision shall apply only to those rental mobilehome parks which have been in operation for five years or more.

(c) (1) If the transfer of a mobilehome park has been excluded from a change in ownership pursuant to subdivision (a) and the park has not been converted to condominium, stock cooperative ownership, or limited equity cooperative ownership, any transfer on or after January 1, 1989, of shares of the voting stock of, or other ownership or membership interests in, the entity which acquired the park in accordance with subdivision (a) shall be a change in ownership of a pro rata portion of the real property of the park unless the transfer is for the purpose of converting the park to condominium, stock cooperative ownership, or limited equity cooperative ownership or is excluded from change in ownership by the provisions of Section 62, 63, or 63.1.

(2) For the purposes of this subdivision, "pro rata portion of the real property" means the total real property of the mobilehome park multiplied by a fraction consisting of the number of shares of voting stock, or other ownership or membership interests, transferred divided by the total number of outstanding issued or unissued shares of voting stock of, or other ownership or membership interests in, the entity which acquired the park in accordance with subdivision (a).

(3) Any pro rata portion or portions of real property which changed ownership pursuant to this subdivision may be separately assessed as provided in Section 2188.10.

(d) Subdivisions (a) and (b) shall remain operative only until January 1, 1994.

(e) It is the intent of the Legislature that, in order to facilitate affordable conversions of mobilehome parks to tenant ownership, subdivision (a) apply to all bona fide transfers of rental mobilehome parks to tenant ownership, including, but not limited to, those parks converted to tenant ownership as a nonprofit corporation made on or after January 1, 1985, and before the termination date of subdivision (a).

SEC. 1.5. Section 62.1 of the Revenue and Taxation Code is amended to read:

62.1. Change in ownership shall not include either of the following:

(a) Any transfer, on or after January 1, 1985, of a mobilehome park to a nonprofit corporation, stock cooperative corporation, limited

equity stock cooperative, or other entity formed by the tenants of a mobilehome park, for the purpose of purchasing the mobilehome park, provided that, with respect to any transfer of a mobilehome park on or after January 1, 1989, subject to this subdivision, the individual tenants who were renting at least 51 percent of the spaces in the mobilehome park prior to the transfer participate in the transaction through the ownership of an aggregate of at least 51 percent of the voting stock of, or other ownership or membership interests in, the entity which acquires the park.

(b) Any transfer or transfers on or after January 1, 1985, and before January 1, 1994, of rental spaces in a mobilehome park to the individual tenants of the rental spaces, provided that (1) at least 51 percent of the rental spaces are purchased by individual tenants renting their spaces prior to purchase, and (2) the individual tenants of these spaces form, within one year after the first purchase of a rental space by an individual tenant, a resident organization, as described in subdivision (k) of Section 50781 of the Health and Safety Code, to operate and maintain the park. If, on or after January 1, 1985, and before January 1, 1994, an individual tenant or tenants or mobilehome park owner notifies the county assessor of the intention to comply with the conditions set forth in the preceding sentence, any mobilehome park rental space which is purchased by an individual tenant in that mobilehome park during that period shall not be reappraised by the assessor. However, if all of the conditions set forth in the first sentence of this subdivision are not satisfied, the county assessor shall thereafter levy escape assessments for the spaces so transferred.

(c) (1) If the transfer of a mobilehome park has been excluded from a change in ownership pursuant to subdivision (a) and the park has not been converted to condominium, stock cooperative ownership, or limited equity cooperative ownership, any transfer on or after January 1, 1989, of shares of the voting stock of, or other ownership or membership interests in, the entity which acquired the park in accordance with subdivision (a) shall be a change in ownership of a pro rata portion of the real property of the park unless the transfer is for the purpose of converting the park to condominium, stock cooperative ownership, or limited equity cooperative ownership or is excluded from change in ownership by the provisions of Section 62, 63, or 63.1.

(2) For the purposes of this subdivision, "pro rata portion of the real property" means the total real property of the mobilehome park multiplied by a fraction consisting of the number of shares of voting stock, or other ownership or membership interests, transferred divided by the total number of outstanding issued or unissued shares of voting stock of, or other ownership or membership interests in, the entity which acquired the park in accordance with subdivision (a).

(3) Any pro rata portion or portions of real property which changed ownership pursuant to this subdivision may be separately assessed as provided in Section 2188.10.

(d) Subdivisions (a) and (b) shall remain operative only until January 1, 1994.

(e) It is the intent of the Legislature that, in order to facilitate affordable conversions of mobilehome parks to tenant ownership, subdivision (a) apply to all bona fide transfers of rental mobilehome parks to tenant ownership, including, but not limited to, those parks converted to tenant ownership as a nonprofit corporation made on or after January 1, 1985, and before the termination date of subdivision (a).

SEC. 2. Section 62.2 of the Revenue and Taxation Code is amended to read:

62.2. Change in ownership shall not include any transfer on or after January 1, 1989, of a mobilehome park to a nonprofit corporation, stock cooperative corporation, or other entity, including a governmental entity, if, within one year after the transfer, the mobilehome park is transferred by that corporation or other entity, including a governmental entity, to a nonprofit corporation, stock cooperative corporation, or other entity formed by the tenants of the mobilehome park in a transaction which is excluded from change in ownership by subdivision (a) of Section 62.1, or at least 51 percent of the mobilehome park rental spaces are transferred to the individual tenants of those spaces in a transaction excluded from change in ownership by subdivision (b) of Section 62.1. With respect to any transfer of any mobilehome park on or after January 1, 1989, subject to this section, the individual tenants who are renting at least a majority of the spaces in the mobilehome park prior to the transfer to the entity formed by the tenants for the acquisition of the park shall participate in the transaction through the ownership of an aggregate of at least a majority of voting stock of, or other ownership or membership interest in, that entity. This section shall not apply if any fees charged the mobilehome park tenants in connection with either the first or second transfer exceed 15 percent of the total consideration paid for the mobilehome park in the first transfer, plus any accrued interest and taxes. If the assessor is notified in writing at the time the transferee files the change in ownership statement that the transferee intends to qualify the transfer under this section, the mobilehome park shall not be reappraised pending satisfaction of the above conditions. If the transferee fails to satisfy those conditions, the assessor shall reappraise the mobilehome park and levy escape assessments or supplemental assessments, as appropriate.

SEC. 2.5. Section 62.2 of the Revenue and Taxation Code is amended to read:

62.2. (a) Change in ownership shall not include any transfer on or after January 1, 1989, of a mobilehome park to a nonprofit corporation, stock cooperative corporation, or other entity, including a governmental entity, if, within one year after the transfer, the mobilehome park is transferred by that corporation or other entity, including a governmental entity, to a nonprofit corporation, stock cooperative corporation, or other entity formed by the tenants of the

mobilehome park in a transaction which is excluded from change in ownership by subdivision (a) of Section 62.1, or at least 51 percent of the mobilehome park rental spaces are transferred to the individual tenants of those spaces in a transaction excluded from change in ownership by subdivision (b) of Section 62.1.

(b) With respect to any transfer of any mobilehome park on or after January 1, 1989, subject to this section and excluded pursuant to subdivision (a) of Section 62.1, the individual tenants who are renting at least a majority of the spaces in the mobilehome park prior to the transfer to the entity formed by the tenants for the acquisition of the park shall participate in the transaction through the ownership of an aggregate of at least a majority of voting stock of, or other ownership or membership interest in, the corporation or other entity.

(c) With respect to any transfer of any mobilehome park rental spaces on or after January 1, 1989, subject to this section and excluded pursuant to subdivision (b) of Section 62.1, the individual tenants renting at least 51 percent of the spaces in the mobilehome park prior to purchase shall participate in the transaction through the purchase of at least 51 percent of the individual spaces.

(d) This section shall not apply if any fees charged the mobilehome park tenants in connection with either the first or second transfer exceed 15 percent of the total consideration paid for the mobilehome park in the first transfer, plus any accrued interest and taxes. No governmentally mandated or required improvements or fees shall be considered in applying the limitation of this subdivision.

(e) If the assessor is notified in writing at the time the transferee files the change in ownership statement that the transferee intends to qualify the transfer under this section, the mobilehome park shall not be reappraised pending satisfaction of the above conditions. If the transferee fails to satisfy those conditions, the assessor shall reappraise the mobilehome park and levy escape assessments or supplemental assessments, as appropriate.

SEC. 3. Sections 1.5 and 2.5 of this bill incorporate amendments to Sections 62.1 and 62.2 of the Revenue and Taxation Code proposed by both this bill and AB 2045. Those sections shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1992, but this bill becomes operative first, (2) each bill amends Sections 62.1 and 62.2 of the Revenue and Taxation Code, and (3) this bill is enacted after AB 2045, in which case Sections 62.1 and 62.2 of the Revenue and Taxation Code, as amended by Sections 1 and 2 of this bill, shall remain operative only until the operative date of AB 2045, at which time Sections 1.5 and 2.5 of this bill shall become operative.

SEC. 4. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant

to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

SEC. 5. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to avoid the adverse impact of the reassessment of mobilehome parks purchased by local governments in connection with the conversion of those parks to ownership by low- and moderate-income resident-tenants for the purpose of preserving badly needed affordable housing, it is necessary that this act take effect immediately.

CHAPTER 443

An act to amend Section 739 of the Public Utilities Code, relating to public utilities.

[Approved by Governor September 25, 1991 Filed with Secretary of State September 26, 1991.]

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

SECTION 1. Section 739 of the Public Utilities Code is amended to read:

739. (a) The commission shall designate a baseline quantity of gas and electricity which is necessary to supply a significant portion of the reasonable energy needs of the average residential customer. In estimating those quantities, the commission shall take into account differentials in energy needs between customers whose residential energy needs are currently supplied by electricity alone or by both electricity and gas. The commission shall develop a separate baseline quantity for all-electric residential customers. For these purposes, "all-electric residential customers" are residential customers having electrical service only or whose space heating is provided by electricity, or both. The commission shall also take into account differentials in energy use by climatic zone and season.

(b) (1) The commission shall establish a standard limited allowance which shall be in addition to the baseline quantity of gas and electricity for residential customers dependent on life-support equipment, including, but not limited to, emphysema and pulmonary patients. A residential customer dependent on

life-support equipment shall be given a higher energy allocation than the average residential customer.

(2) "Life-support equipment" means that equipment which utilizes mechanical or artificial means to sustain, restore, or supplant a vital function, or mechanical equipment which is relied upon for mobility both within and outside of buildings. "Life-support equipment," as used in this subdivision, includes all of the following: all types of respirators, iron lungs, hemodialysis machines, suction machines, electric nerve stimulators, pressure pads and pumps, aerosol tents, electrostatic and ultrasonic nebulizers, compressors, IPPB machines, and motorized wheelchairs.

(3) The limited additional allowance shall also be made available to paraplegic and quadriplegic persons in consideration of the increased heating and cooling needs of those persons.

(4) The limited additional allowance shall also be made available to multiple sclerosis patients in consideration of the increased heating and cooling needs of those persons.

(5) The limited additional allowance shall also be made available to scleroderma patients in consideration of the increased heating needs of those persons.

(c) (1) The commission shall require that every electrical and gas corporation file a schedule of rates and charges providing baseline rates. The baseline rates shall apply to the first or lowest block of an increasing block rate structure which shall be the baseline quantity and shall be established for the residential consumption of gas and electricity. In establishing these rates, the commission shall avoid excessive rate increases for residential customers, and shall establish an appropriate gradual differential between the rates for the respective blocks of usage.

(2) In establishing residential electric and gas rates, including baseline rates, the commission shall assure that the rates are sufficient to enable the electrical corporation or gas corporation to recover a just and reasonable amount of revenue from residential customers as a class, while observing the principle that electricity and gas services are necessities, for which a low affordable rate is desirable.

(d) As used in this section:

(1) "Baseline quantity" means a quantity of electricity or gas for residential customers to be established by the commission based on from 50 to 60 percent of average residential consumption of these commodities, except that, for residential gas customers and for all-electric residential customers, the baseline quantity shall be established at from 60 to 70 percent of average residential consumption during the winter heating season. In establishing the baseline quantities, the commission shall take into account climatic and seasonal variations in consumption and the availability of gas service. The commission shall review and revise baseline quantities as average consumption patterns change in order to maintain these ratios.

(2) "Residential customer" means those customers receiving electrical or gas service pursuant to a domestic rate schedule and excludes industrial, commercial, and every other category of customer.

(e) Wholesale electrical or gas purchases, and the rates charged therefor, are exempt from this section.

(f) Nothing contained in this section shall be construed to prohibit experimentation with alternative gas or electrical rate schedules for the purpose of achieving energy conservation.

(g) (1) The commission shall establish a program of assistance to low-income electric and gas customers, the cost of which shall not be borne solely by any single class of customer.

(2) The commission's program of assistance to low-income electric and gas customers shall, as soon as practicable, include nonprofit group living facilities specified by the commission, if the commission finds that the residents in these facilities substantially meet the commission's low-income eligibility requirements and there is a feasible process for certifying that the assistance shall be used for the direct benefit, such as improved quality of care or improved food service, of the low-income residents in the facilities.

CHAPTER 444

An act to amend Section 2105 of the Streets and Highways Code, relating to transportation, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 25, 1991. Filed with Secretary of State September 26, 1991.]

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

SECTION 1. Section 2105 of the Streets and Highways Code is amended to read:

2105. In addition to the apportionments prescribed by Sections 2104, 2106, and 2107, from the revenues derived from a per gallon tax imposed pursuant to Section 7351 of the Revenue and Taxation Code, and a per gallon tax imposed pursuant to Section 8651 of that code, the following apportionments shall be made:

(a) A sum equal to the net revenue from a tax of 11.5 percent of any per gallon tax in excess of nine cents ($0.09) per gallon under Section 7351 of the Revenue and Taxation Code, and 11.5 percent of any per gallon tax in excess of nine cents ($0.09) per gallon under Section 8651 of that code, shall be apportioned among the counties, including a city and county.

The amount of apportionment to each county, including a city and county, during a fiscal year shall be calculated as follows:

(1) One million dollars ($1,000,000) for apportionment to all

counties, including a city and county, in proportion to each county's receipts during the prior fiscal year under Sections 2104 and 2106.

(2) One million dollars ($1,000,000) for apportionment to all counties, including a city and county, as follows:

(A) Seventy-five percent in the proportion that the number of fee-paid and exempt vehicles which are registered in the county bears to the number of fee-paid and exempt vehicles registered in the state.

(B) Twenty-five percent in the proportion that the number of miles of maintained county roads in the county bears to the miles of maintained county roads in the state.

(3) For each county, determine its factor which is the higher amount calculated pursuant to paragraph (1) or (2) divided by the sum of the higher amounts for all of the counties.

(4) The amount to be apportioned to each county is equal to its factor multiplied by the amount available for apportionment.

(b) A sum equal to the net revenue from a tax of 11.5 percent of any per gallon tax in excess of nine cents ($0.09) per gallon under Section 7351 of the Revenue and Taxation Code, and 11.5 percent of any per gallon tax in excess of nine cents ($0.09) per gallon under Section 8651 of that code, shall be apportioned to cities, including a city and county, in the proportion that the total population of the city bears to the total population of all the cities in the state.

(c) In order to receive any allocation pursuant to this section, the city or county, as the case may be, shall annually expend from its general fund for street and highway purposes an amount not less than the annual average of its expenditures from its general fund during the 1987–88, 1988–89, and 1989–90 fiscal years, as reported to the Controller pursuant to Section 2151. For purposes of this subdivision, in calculating a city's or county's annual general fund expenditures and its average general fund expenditures for the 1987–88, 1988–89, and 1989–90 fiscal years, any unrestricted funds which the city or county may expend at its discretion, including vehicle in-lieu tax revenues and revenues from fines and forfeitures, expended for street and highway purposes are expenditures from the general fund.

(d) The Controller may request fiscal data from cities and counties, in addition to data provided pursuant to Section 2151, for the 1987–88, 1988–89, and 1989–90 fiscal years. Each city and county shall furnish the data to the Controller not later than 120 days after receiving the request. The Controller may withhold payment to cities and counties that do not comply with the request for information or provide incomplete data.

(e) At the conclusion of each fiscal year during which a city or county receives funds under this section, the Controller shall verify the city's or county's compliance with subdivision (c). Any city or county which has not complied with this requirement shall reimburse the state for the funds it received during that fiscal year. The Controller shall offset payments pursuant to Sections 2104, 2105,

2106, and 2107 to any city or county which has not complied with subdivision (c) until the state is reimbursed for the subventions under this section during the fiscal year when the city or county did not comply.

(f) For any city incorporated after July 1, 1987, the Controller shall calculate the annual average of expenditures pursuant to subdivision (c) for the period between July 1, 1987, and June 30, 1990, that the city was incorporated.

(g) Any funds that are returned to the state as a result of noncompliance with subdivision (c) shall be added to the base and redistributed among cities and counties for the fiscal year during which it is returned.

(h) The Controller shall determine the average amount of unrestricted revenues, which a city or county may expend at its discretion, received from fines and forfeitures, federal general revenue sharing, and the proceeds from the sale of real property or bonds during the 1987–88, 1988–89, and 1989–90 fiscal years, and the amount of each of those sources expended for street and highway purposes for those fiscal years, which latter amount shall be included in the calculation of general fund expenditures pursuant to subdivision (c). If the amount of revenues received by a city or county from any of those sources during a subsequent fiscal year is less than the average revenues from the same source as determined by the Controller in accordance with this subdivision, the city's or county's expenditure requirements pursuant to subdivision (c) from that source shall be reduced in the same proportion as the reduced revenue bears to the average revenue from the same source. The reduction in the city's or county's expenditure requirements may only be granted upon submittal to and review by the Controller of financial information.

(i) If a city or county fails to comply with the requirements of subdivision (c) in a particular fiscal year, the city or county may expend during that fiscal year and the following fiscal year, a total amount which is not less than the total amount required to be expended for those years for purposes of complying with subdivision (c), as adjusted pursuant to subdivision (h). For cities and counties that fail to comply with subdivision (c) using the two-year period, the Controller shall begin withholding funds pursuant to subdivision (e) at the end of the two-year period.

(j) Revenues from any fee imposed by a city or county on or after January 1, 1990, which are used on or after July 1, 1990, by that city or county for maintenance purposes on its streets or highways shall be considered as general fund expenditures for the purpose of subdivision (c).

(k) A city or county shall provide all necessary information requested by the Controller if the city or county requests an adjustment to its average base year or annual expenditures that are the result of any amendment of this section after January 1, 1991. The Controller shall not make any change to the average base year or

annual expenditure until the Controller has received and verified the accuracy of the necessary data.

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

Prior to the end of the 1991 calendar year, the Controller will begin auditing cities and counties to determine compliance with their transportation maintenance of effort prior to the end of the 1991 calendar year. In order to provide cities and counties the ability to use a two fiscal year transportation maintenance of effort program to enable them to receive motor vehicle fuel tax revenues for streets and highways, it is necessary that this act take effect immediately.

CHAPTER 445

An act relating to highways.

[Approved by Governor September 25, 1991 Filed with Secretary of State September 26, 1991]

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

SECTION 1. The Legislature finds and declares that highway general service signs identifying food, fuel, lodging, and camping facilities provide motorists with a valuable service which enables them to better plan their travel and stops and contributes to the enjoyment of their visit to an area. The Legislature also finds and declares that there are differences between motorist services in rural areas and those in urban areas and that criteria for the placement of signs in the two areas should be determined differently.

The Legislature further finds and declares that it should be the policy and practice of the state, through the Department of Transportation, to adopt separate rules and regulations for placing general service signs on rural highways.

SEC. 2. (a) The Department of Transportation shall, as a pilot program in the Counties of Butte and Lake, develop specific criteria for determining the need and eligibility for general service signs on rural highways indicating to motorists the availability of food, fuel, lodging, and camping services. In developing and applying its criteria, the department shall recognize the unique conditions and differences inherent in rural service facilities' location, size, and operation from those in urbanized areas.

(b) In addition to any other criteria, the department's rural sign criteria shall recognize and award points to the following:

(1) Food establishments or combinations of establishments which are open to serve breakfast, lunch, and dinner; or one establishment which serves at least two of those three meals per day.

(2) Food and lodging establishments up to five miles from the highway exit, with the maximum point total awarded to establishments up to one mile from the exit.

(3) Lodging facilities with at least two rooms with private baths, with the maximum point total awarded to facilities with 30 or more such rooms.

(4) Camper facilities, or a combination of facilities, equipped to handle a minimum of 25 travel trailers, campers, and other recreational vehicles.

(5) Service stations open at least 12 hours a day.

(c) The department shall, on or before January 1, 1994, prepare and submit to the Legislature a report on the pilot program conducted under this section which shall include, but not be limited to, all of the following:

(1) An evaluation of the effect of general service signs on motorists traveling in the Counties of Butte and Lake.

(2) An evaluation of the effect of this additional signage in assisting motorists by making food, fuel, lodging, and camping services in rural areas in these counties more accessible to motorists.

(3) The department's findings, conclusions, and recommendations regarding the continuation, expansion, or termination of the pilot program.

CHAPTER 446

An act to amend Section 5090.61 of the Public Resources Code, relating to off-highway vehicles.

[Approved by Governor September 25, 1991. Filed with Secretary of State September 26, 1991.]

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

SECTION 1. Section 5090.61 of the Public Resources Code is amended to read:

5090.61. Moneys in the fund shall be available for appropriation in accordance with the following allocation:

(a) An amount, not to exceed 50 percent of the revenues from the special fee required by subdivision (b) of Section 38225 of the Vehicle Code, the revenues transferred from the Motor Vehicle Fuel Account, and revenue received from interest, is available for local assistance grants pursuant to Article 5 (commencing with Section 5090.50). Any portion of this amount not granted to local public agencies shall be available to the division for cooperative agreements with agencies of the United States pursuant to Section 5090.55.

(b) The remainder of the revenues from the special fee required by subdivision (b) of Section 38225 of the Vehicle Code and the remainder of the revenues transferred from the Motor Vehicle Fuel

Account, together with all other moneys in the fund, shall be available for the support of the division in implementing the program and for the planning, acquisition, development, construction, maintenance, administration, operation, and conservation of lands in the system. As used in this subdivision, "support of the division" includes functions performed outside the division by others on behalf of the division, including costs incurred on behalf of the division for personnel management and training, accounting and fiscal analysis, records, purchasing, public information activities, consultation of professional scientists and reclamation experts for purposes of Section 5090.35, and legal services. "Support of the division" does not include any costs incurred by, or attributable to, the director or the director's immediate staff or their salaries.

CHAPTER 447

An act to amend Section 3 of Chapter 1428 of the Statutes of 1985, relating to hazardous substances, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 25, 1991. Filed with Secretary of State September 26, 1991.]

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

SECTION 1. Section 3 of Chapter 1428 of the Statutes of 1985 is amended to read:

Sec. 3. The sum of twenty-one million four hundred thousand dollars ($21,400,000) is hereby appropriated from the contingency reserve for economic uncertainties in the General Fund, as provided in Section 12.30 of the Budget Act of 1985 (Chapter 111, Statutes of 1985), as follows:

(a) Sixteen million dollars ($16,000,000) to State Department of Health Services for expenditure at the Stringfellow Acid Pits without regard to fiscal years in accordance with the following schedule:

Schedule:

(1) To provide a permanent alternative water supply to residents in Glen Avon who now receive bottled water from the state	$ 1,600,000
(2) To conduct a comprehensive health study of former and current residents near the Stringfellow Acid Pits to identify and assess both acute and chronic health problems that may be linked to	

	contaminants from the Stringfellow site	$ 800,000
(3)	To establish a Special Stringfellow Reserve Account to be used by the department to fund special investigations and remedial or emergency actions that are necessary to fully protect the health of the residents near Stringfellow if the department determines that funds are not available from other sources including the federal Environmental Protection Agency, the responsible parties, the Hazardous Substance Account, and the Hazardous Substance Cleanup Fund	$13,600,000

(b) Three hundred thousand dollars ($300,000) to the State Department of Health Services for expenditure without regard to fiscal years for the design, purchase, and installation of activated carbon adsorption water treatment systems for the Rurban Homes and Richwood Mutual Water Companies and the expansion of the existing carbon treatment system for the Hemlock Mutual Water Company. The department shall maximize the use of federal funds and shall enter into a written agreement with the Environmental Protection Agency in which the department agrees to reimburse the agency for expenditures which exceed the agency's portion of design, purchase, and installation costs pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. Sec. 9601 et seq.).

Any funds remaining following the installation of water treatment systems pursuant to this subdivision shall be deposited in the subaccount for site operation and maintenance established pursuant to Section 4 of Chapter 1428 of the Statutes of 1985.

(c) One million one hundred thousand dollars ($1,100,000) to the State Department of Health Services for expenditure without regard to fiscal years for the design, purchase, and installation of a water treatment system for the Valley County Water District in Baldwin Park, and for associated operation and maintenance costs.

Pursuant to Section 25358.3 of the Health and Safety Code, in expending funds pursuant to this subdivision, the department shall contract with the Valley County Water District or other appropriate public agency for the design, purchase, and installation of a treatment facility to address volatile organic compound (VOC) contamination affecting the Valley County Water District's wells, and for associated operation and maintenance costs. The location of this treatment facility shall be consistent with the recommendations of the Environmental Protection Agency Basinwide Technical Plan for

the San Gabriel Basin regarding the placement of potential operable units, and with the overall goal of minimizing the spread of the plume of contaminated groundwater which underlies the Baldwin Park area into uncontaminated areas.

Expenditures made pursuant to this subdivision shall not affect any subsequent recovery actions pursuant to Section 25360 of the Health and Safety Code.

Any funds remaining following the installation of a water treatment system at the Valley County Water District pursuant to this subdivision shall be deposited in a special account designated for subsequent actions determined to be necessary to contain and reduce groundwater contamination within the San Gabriel Basin, including costs associated with the design, purchase, and installation of treatment facilities, and operation and maintenance costs associated with those treatment facilities.

All expenditures of funds pursuant to this subdivision shall be for actions which are determined by the department to be consistent with the objectives, as defined by the Environmental Protection Agency Basinwide Technical Plan for the San Gabriel Basin, for the containment of the plumes of contamination and the reduction of volatile organic compound (VOC) contamination in the San Gabriel Basin.

(d) Four million dollars ($4,000,000) to be transferred by the Controller to the Emergency Clean Water Grant Fund. This amount is available to the State Department of Health Services without regard to fiscal years, pursuant to Section 4030.9 of the Health and Safety Code, to take remedial action to ensure safe water supplies at public water systems where there is an imminent threat to public health due to contamination of the public water supply and for which the department determines that the situation would not otherwise be adequately addressed through an action funded by any other private, local, state, or federal agency or funding source, including the Hazardous Substance Account and the Hazardous Substance Cleanup Fund. Four hundred thousand dollars ($400,000) shall be used to design, purchase, and install water filtration systems for nitrate removal for the McFarland Mutual Water Company.

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

In order that grave threats to public health and safety and the environment caused by spreading groundwater contamination can be alleviated without further delay, it is necessary that this act take effect immediately.

CHAPTER 448

An act to amend Section 27315 of the Vehicle Code, relating to vehicles.

[Approved by Governor September 25, 1991. Filed with Secretary of State September 26, 1991.]

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

SECTION 1. Section 27315 of the Vehicle Code is amended to read:

27315. (a) The Legislature finds that a mandatory seatbelt law will contribute to reducing highway deaths and injuries by encouraging greater usage of existing manual seatbelts, that automatic crash protection systems which require no action by vehicle occupants offer the best hope of reducing deaths and injuries, and that encouraging the use of manual safety belts is only a partial remedy for addressing this major cause of death and injury. The Legislature declares that the enactment of this section is intended to be compatible with support for federal safety standards requiring automatic crash protection systems and should not be used in any manner to rescind federal requirements for installation of automatic restraints in new cars.

(b) This section shall be known and may be cited as the Private Passenger Motor Vehicle Safety Act.

(c) As used in this section, "private passenger motor vehicle" means any passenger vehicle as defined in Section 465 and any motortruck as defined in Section 410 of less than 6,001 pounds unladen weight, but "private passenger motor vehicle" does not include a motorcycle as defined in Section 400.

(d) (1) No person shall operate a private passenger motor vehicle on a highway unless that person and all passengers four years of age or over are restrained by a safety belt. This paragraph shall not apply to the operator of a taxicab, as defined in Section 27908, when the taxicab is driven on a city street.

(2) The operator of a limousine for hire or the operator of an authorized emergency vehicle, as defined in subdivision (a) of Section 165, shall not operate the limousine for hire or authorized emergency vehicle unless the operator and any passengers four years of age or over in the front seat are restrained by a safety belt.

(3) The operator of a taxicab shall not operate the taxicab unless any passengers four years of age and over in the front seat are restrained by a safety belt.

(e) No person 16 years of age or over shall be a passenger in a private passenger motor vehicle on a highway unless that person is restrained by a safety belt.

(f) Every owner of a private passenger motor vehicle, including every owner or operator of a taxicab, as defined in Section 27908, or

a limousine for hire, operated on a highway shall maintain safety belts in good working order for the use of occupants of the vehicle. The safety belts shall conform to motor vehicle safety standards established by the United States Department of Transportation. This subdivision does not, however, require installation or maintenance of safety belts where not required by the laws of the United States applicable to the vehicle at the time of its initial sale.

(g) This section does not apply to a passenger or operator with a physically disabling condition or medical condition which would prevent appropriate restraint in a safety belt, if the condition is duly certified by a licensed physician and surgeon or by a licensed chiropractor who shall state the nature of the condition, as well as the reason the restraint is inappropriate. This section also does not apply to a peace officer, as defined in Section 830 of the Penal Code, when in an authorized emergency vehicle as defined in paragraph (1) of subdivision (b) of Section 165, or to any passenger in any seat behind the front seat of an authorized emergency vehicle as defined in paragraph (1) of subdivision (b) of Section 165 operated by the peace officer, unless required by the agency employing the peace officer.

(h) Notwithstanding subdivision (a) of Section 42001, any violation of subdivision (d), (e), or (f) is an infraction punishable by a fine, including all penalty assessments and court costs imposed on the convicted person, of not more than twenty dollars ($20) for a first offense, and a fine, including all penalty assessments and court costs imposed on the convicted person, of not more than fifty dollars ($50) for each subsequent offense. In lieu of the fine and any penalty assessment or court costs, the court, pursuant to Section 42005, may order that a person convicted of a first offense attend a school for traffic violators or a driving school in which the use of safety belts is demonstrated.

(i) For any violation of subdivision (d), (e), or (f), in addition to the fines provided for pursuant to subdivision (h) and the penalty assessments provided for pursuant to Section 1464 of the Penal Code, an additional penalty assessment of two dollars ($2) shall be levied for any first offense, and an additional penalty assessment of five dollars ($5) shall be levied for any subsequent offense.

All moneys collected pursuant to this subdivision shall be utilized in accordance with Section 1464 of the Penal Code.

(j) In any civil action, a violation of subdivision (d), (e), or (f) or information of a violation of subdivision (h) shall not establish negligence as a matter of law or negligence per se for comparative fault purposes, but negligence may be proven as a fact without regard to the violation.

(k) Notwithstanding Section 40300 or any other provision of law, a peace officer shall not stop or seize a person for a violation of subdivision (d), (e), or (f), nor arrest or issue a notice to appear or notice to correct for a violation of those subdivisions if the officer has no other cause to stop or seize the person other than a violation of

subdivision (d), (e), or (f).

(*l*) If the United States Secretary of Transportation fails to promulgate safety standards for manual safety belt systems by September 1, 1989, no private passenger motor vehicle manufactured after that date for sale or sold in this state shall be registered unless it contains a manual safety belt system which meets the performance standards applicable to automatic crash protection devices promulgated by the Secretary of Transportation pursuant to Federal Motor Vehicle Safety Standard No. 208 (49 C.F.R. 571.208) as in effect on January 1, 1985.

(m) Each private passenger motor vehicle offered for original sale in this state which has been manufactured on or after September 1, 1989, shall comply with the automatic restraint requirements of Section S4.1.2.1 of Federal Motor Vehicle Safety Standard No. 208 (49 C.F.R. 571.208), as published in Volume 49 of the Federal Register, No. 138, page 29009. Any automobile manufacturer who sells or delivers a private passenger motor vehicle subject to the requirements of this subdivision who fails to comply with this subdivision shall be punished by a fine of not more than five hundred dollars ($500) for each sale or delivery of a noncomplying private passenger motor vehicle.

(n) Compliance with subdivision (*l*) or (m) by a manufacturer shall be made by self-certification in the same manner as self-certification is accomplished under federal law.

(o) This section does not apply to a person actually engaged in delivery of newspapers to customers along the person's route if the person is restrained by a safety belt prior to commencing and subsequent to completing delivery on the route.

(p) This section does not apply to a person actually engaged in collection and delivery activities as a rural delivery carrier for the United States Postal Service if the person is restrained by a safety belt prior to stopping at the first box and subsequent to stopping at the last box on the route.

(q) Subdivisions (d), (e), (f), (g), and (h) shall become inoperative immediately upon the date that the Secretary of the United States Department of Transportation, or his or her delegate, determines to rescind the portion of the Federal Motor Vehicle Safety Standard No. 208 (49 C.F.R. 571.208) which requires the installation of automatic restraints in new private passenger motor vehicles; provided, however, that those subdivisions shall not become inoperative if the secretary's decision to rescind that Standard No. 208 is not based, in any respect, on the enactment or continued operation of those subdivisions.

CHAPTER 449

An act to amend Section 69561 of the Education Code, relating to postsecondary education.

[Approved by Governor September 25, 1991. Filed with Secretary of State September 26, 1991]

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

SECTION 1. Section 69561 of the Education Code is amended to read:

69561. The Student Opportunity and Access Program is administered by the Student Aid Commission, which shall apportion funds for the support of projects designed to increase the accessibility of postsecondary educational opportunities to low-income and ethnic minority elementary and secondary school students. These projects shall primarily (1) increase the availability of information for low-income and ethnic minority students on the existence of postsecondary schooling and work opportunities, and (2) raise the achievement levels of low-income and ethnic minority students so as to increase the number of high school graduates eligible to pursue postsecondary learning opportunities. Projects may also assist low-income and ethnic minority community college students in transferring to four-year institutions, to the extent that project resources are available. In addition, projects may provide assistance to low-income fifth and sixth grade students and their parents in order to implement outreach efforts designed to use the future availability of financial assistance as a means of motivating students to stay in school and complete college preparatory courses. Projects supported by the commission shall also meet all of the following criteria:

(a) Each project shall be proposed and operated through a consortium that involves at least one secondary school district office and one community college and two of the following educational agencies: nonprofit educational, counseling, or community agencies; the University of California; the California State University; the California Maritime Academy; independent colleges and universities, or eligible private vocational or technical schools. As used in this article, eligible private vocational or technical schools shall include schools accredited by a national, state, or regional accrediting association recognized by the United States Department of Education. The commission, in awarding initial project grants, shall give priority to proposals developed by more than three eligible agencies. Projects shall be located throughout the state in order to provide access to program services in rural, urban, and suburban areas.

(b) The governing board of each project, comprising at least one representative from each entity in the consortium, shall establish

management policy, provide direction to the project director, set priorities for budgetary decisions that reflect the specific needs of the project, and assume responsibility for maintaining the required level of matching funds, including solicitations from the private sector and corporate sources.

(c) Prior to receiving a project grant, each consortium shall conduct a planning process and submit a comprehensive project proposal to include, but not be limited to, the following information:

(1) The agencies participating in the project.

(2) The students to be served by the project.

(3) The ways in which the project will reduce duplication and related costs.

(4) The methods for assessing the project's impact.

(d) Each project shall include the direct involvement of secondary school staff in the daily operations of the project, with preference in funding to those projects that effectively integrate the objectives of the Student Opportunity and Access Program with those of the school district in providing services that are essential to the target student population in preparation for postsecondary education.

(e) Each project shall maintain within the project headquarters a comprehensive student-specific information system on low-income and ethnic minority students in grades 11 and 12 at secondary schools within the participating districts. This information shall be maintained in a manner consistent with the law relating to pupil records.

(f) At least 30 percent of each project grant shall be allocated for stipends to peer advisers and tutors who meet all of the following criteria:

(1) Work with low-income and ethnic minority secondary school students.

(2) Are currently enrolled in a college or other postsecondary school as an undergraduate or graduate student.

(3) Have demonstrated financial need for the stipend.

(g) Each project should work cooperatively with other projects in the program and with the commission to establish viable student services and sound administrative procedures and to ensure coordination of the activities of the project with existing educational opportunity programs. The Student Aid Commission may develop additional regulations regarding the awarding of project grants and criteria for evaluating the effectiveness of the individual projects.

CHAPTER 450

An act relating to the Hemet Unified School District.

[Approved by Governor September 25, 1991. Filed with Secretary of State September 26, 1991]

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

SECTION 1. The Legislature finds and declares that the Hemet Unified School District is a large district that serves pupils from a wide and varied geographic area. Within the Hemet Unified School District, Hamilton School maintains kindergarten and grades 1 to 12, inclusive, in one school. At present, grades 9 to 12, inclusive, have a population of 219 pupils. Pupils who presently attend Hamilton School in those grades would have to travel long distances over hazardous terrain to attend other high schools within Hemet Unified School District.

SEC. 2. Notwithstanding any other provision of law, Hemet Unified School District, regardless of the number of units of average daily attendance for the district, may establish the Hamilton School for grades 9 to 12, inclusive, as a small necessary high school for purposes of receiving apportionments pursuant to the schedule and criteria for each high school set forth in Section 42284.

SEC. 2.5. Section 1 and Section 2 of this act shall remain in effect only until June 30, 1994, and as of that date is repealed, unless a later enacted statute, which is enacted before June 30, 1994, deletes or extends that date.

SEC. 3. Due to the unique circumstances of the Hamilton School in the Hemet Unified School District set forth in Section 1 of this act, the Legislature finds and declares that a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the Constitution.

CHAPTER 451

An act to amend Section 667.5 of the Penal Code, relating to sentencing.

[Approved by Governor September 25, 1991 Filed with Secretary of State September 26, 1991]

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

SECTION 1. Section 667.5 of the Penal Code is amended to read:

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

(a) Where one of the new offenses is one of the violent felonies

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

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

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

(1) Murder or voluntary manslaughter.

(2) Mayhem.

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

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

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

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

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

(8) Any felony in which the defendant inflicts great bodily injury on any person other than an accomplice which has been charged and proved as provided for in Section 12022.7 or 12022.9 on or after July 1, 1977, or as specified prior to July 1, 1977, in Sections 213, 264, and 461, or any felony in which the defendant uses a firearm which use has been charged and proved as provided in Section 12022.5 or 12022.55.

(9) Any robbery perpetrated in an inhabited dwelling house, vessel, as defined in Section 21 of the Harbors and Navigation Code, which is inhabited and designed for habitation, inhabited trailer coach, as defined in the Vehicle Code, or in the inhabited portion of any other building, wherein it is charged and proved that the defendant personally used a deadly or dangerous weapon, as provided in subdivision (b) of Section 12022, in the commission of that robbery.

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

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

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

(12) Attempted murder.

(13) A violation of Section 12308.

(14) Kidnapping, in violation of subdivision (b) of Section 207.

(15) Continuous sexual abuse of a child, in violation of Section 288.5.

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

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

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

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

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

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

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

(j) For the purposes of this section, when a person subject to the

custody, control, and discipline of the Director of Corrections is incarcerated at a facility operated by the Youth Authority, that incarceration shall be deemed to be a term served in state prison.

(k) Notwithstanding subdivisions (d) and (g) or any other provision of law, where one of the new offenses is committed while the defendant is temporarily removed from prison pursuant to Section 2690 or while the defendant is transferred to a community facility pursuant to Section 3416, 6253, or 6263, or while the defendant is on furlough pursuant to Section 6254, the defendant shall be subject to the full enhancements provided for in this section.

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

CHAPTER 452

An act to amend Section 26227 of the Government Code, relating to local government, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 26, 1991. Filed with Secretary of State September 27, 1991.]

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

SECTION 1. Section 26227 of the Government Code is amended to read:

26227. The board of supervisors of any county may appropriate and expend money from the general fund of the county to establish county programs or to fund other programs deemed by the board of supervisors to be necessary to meet the social needs of the population of the county, including but not limited to, the areas of health, law enforcement, public safety, rehabilitation, welfare, education, and legal services, and the needs of physically, mentally and financially handicapped persons and aged persons.

The board of supervisors may contract with other public agencies or private agencies or individuals to operate those programs which the board of supervisors determines will serve public purposes. In the furtherance of those programs, the board of supervisors may make available to a public agency, nonprofit corporation, or nonprofit association any real property of the county which is not and, during the time of possession, will not be needed for county purposes, to be used to carry out the programs, upon terms and conditions determined by the board of supervisors to be in the best interests of the county and the general public, and the board of supervisors may finance or assist in the financing of the acquisition or improvement of real property and furnishings to be owned or operated by any public agency, nonprofit corporation, or nonprofit association to carry out the programs, through a lease, installment

sale, or other transaction, in either case without complying with any other provisions of this code relating to acquiring, improving, leasing, or granting the use of or otherwise disposing of county property.

A program may consist of a community support program including a charitable fund drive conducted in cooperation with one or more nonprofit charitable organizations if the board of supervisors deems a program will assist in meeting the social needs of the population of the county. If the board establishes a program, the officers and employees of the county shall have the authority to carry out the program, using county funds and property if authorized by the board. During working hours, a program may include direct solicitation by county officers and employees and the assignment of officers and employees to attend or assist in the administration of program activities if authorized by the board.

SEC. 2. In enacting this act, the Legislature does not intend to increase or decrease the authority of public agencies, other than counties, regarding community support programs, including charitable fund drives conducted in cooperation with one or more nonprofit charitable organizations.

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

In order that the benefits of charitable fund raising among public employees can accrue to employees and nonprofit charitable organizations as soon as possible, this act must take effect immediately.

CHAPTER 453

An act to amend Section 853.6 of the Penal Code, relating to criminal procedure.

[Approved by Governor September 26, 1991 Filed with Secretary of State September 27, 1991]

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

SECTION 1. Section 853.6 of the Penal Code is amended to read:

853.6. (a) In any case in which a person is arrested for an offense declared to be a misdemeanor, including a violation of any city or county ordinance, and does not demand to be taken before a magistrate, that person shall, instead of being taken before a magistrate, be released according to the procedures set forth by this chapter. If the person is released, the officer or superior shall prepare in duplicate a written notice to appear in court, containing the name and address of the person, the offense charged, and the time when,

and place where, the person shall appear in court. If, pursuant to subdivision (i), the person is not released prior to being booked and the officer in charge of the booking or his or her superior determines that the person should be released, the officer or superior shall prepare a written notice to appear in a court.

In any case in which a person is arrested for a misdemeanor violation of a protective court order involving domestic violence, as defined in subdivision (b) of Section 13700, the person shall be taken before a magistrate instead of being released according to the procedures set forth in this chapter, unless the arresting officer determines that there is not a reasonable likelihood that the offense will continue or resume or that the safety of persons or property would be imminently endangered by release of the person arrested.

Nothing in this subdivision shall be construed to affect a defendant's ability to be released on bail or on his or her own recognizance.

(b) Unless waived by the person, the time specified in the notice to appear shall be at least 10 days after arrest if the duplicate notice is to be filed by the officer with the magistrate.

(c) The place specified in the notice shall be the court of the magistrate before whom the person would be taken if the requirement of taking an arrested person before a magistrate were complied with, or shall be an officer authorized by that court to receive a deposit of bail.

(d) The officer shall deliver one copy of the notice to appear to the arrested person, and the arrested person, in order to secure release, shall give his or her written promise to appear in court as specified in the notice by signing the duplicate notice which shall be retained by the officer. Upon the signing of the duplicate notice, the arresting officer shall immediately release the person arrested from custody.

(e) The officer shall, as soon as practicable, file the duplicate notice, as follows:

(1) It shall be filed with the magistrate if the offense charged is an infraction.

(2) It shall be filed with the magistrate if the prosecuting attorney has previously directed the officer to do so.

(3) The duplicate notice and underlying police reports in support of the charge or charges shall be filed with the prosecuting attorney in cases other than those specified in paragraphs (1) and (2).

If the duplicate notice is filed with the prosecuting attorney, he or she, within his or her discretion, may initiate prosecution by filing the notice or a formal complaint with the magistrate specified in the duplicate notice within 25 days from the time of arrest. If the prosecution is not to be initiated, the prosecutor shall send notice to the person arrested at the address on the notice to appear. The failure by the prosecutor to file the notice or formal complaint within 25 days of the time of the arrest shall not bar further prosecution of the misdemeanor charged in the notice to appear. However, any

further prosecution shall be preceded by a new and separate citation or an arrest warrant.

Upon the filing of the notice with the magistrate by the officer, or the filing of the notice or formal complaint by the prosecutor, the magistrate may fix the amount of bail which in his or her judgment, in accordance with Section 1275, is reasonable and sufficient for the appearance of the defendant and shall indorse upon the notice a statement signed by him or her in the form set forth in Section 815a. The defendant may, prior to the date upon which he or she promised to appear in court, deposit with the magistrate the amount of bail set by the magistrate. At the time the case is called for arraignment before the magistrate, if the defendant does not appear, either in person or by counsel, the magistrate may declare the bail forfeited, and may, in his or her discretion, order that no further proceedings shall be had in the case, unless the defendant has been charged with violation of Section 374.3 or 374.7 of this code or of Section 11357, 11360, or 13002 of the Health and Safety Code, or a violation punishable under Section 5008.7 of the Public Resources Code, and he or she has previously been convicted of a violation of that section or a violation which is punishable under that section, except in cases where the magistrate finds that undue hardship will be imposed upon the defendant by requiring him or her to appear, the magistrate may declare the bail forfeited and order that no further proceedings be had in the case.

Upon the making of the order that no further proceedings be had, all sums deposited as bail shall immediately be paid into the county treasury for distribution pursuant to Section 1463.

(f) No warrant shall be issued for the arrest of a person who has given a written promise to appear in court, unless and until he or she has violated that promise or has failed to deposit bail, to appear for arraignment, trial, or judgment or to comply with the terms and provisions of the judgment, as required by law.

(g) The officer may either book the arrested person prior to release or indicate on the citation that the arrested person shall be booked. If it is indicated on the citation that the arrested person is to be booked, the magistrate shall, before the proceedings are finally concluded, order the defendant to be booked by the arresting agency.

(h) A peace officer shall use the written notice to appear procedure set forth in this section for any misdemeanor offense in which the officer has arrested a person without a warrant pursuant to Section 836 or in which he or she has taken custody of a person pursuant to Section 847.

(i) Whenever any person is arrested by a peace officer for a misdemeanor, that person shall be released according to the procedures set forth by this chapter unless one of the following is a reason for nonrelease, in which case the arresting officer may release the person, or the arresting officer shall indicate, on a form to be established by his or her employing law enforcement agency, which

of the following was a reason for the nonrelease:

(1) The person arrested was so intoxicated that he or she could have been a danger to himself or herself or to others.

(2) The person arrested required medical examination or medical care or was otherwise unable to care for his or her own safety.

(3) The person was arrested under one or more of the circumstances listed in Sections 40302 and 40303 of the Vehicle Code.

(4) There were one or more outstanding arrest warrants for the person.

(5) The person could not provide satisfactory evidence of personal identification.

(6) The prosecution of the offense or offenses for which the person was arrested, or the prosecution of any other offense or offenses, would be jeopardized by immediate release of the person arrested.

(7) There was a reasonable likelihood that the offense or offenses would continue or resume, or that the safety of persons or property would be imminently endangered by release of the person arrested.

(8) The person arrested demanded to be taken before a magistrate or refused to sign the notice to appear.

(9) There is reason to believe that the person would not appear at the time and place specified in the notice. The basis for this determination shall be specifically stated.

The form shall be filed with the arresting agency as soon as practicable and shall be made available to any party having custody of the arrested person, subsequent to the arresting officer, and to any person authorized by law to release him or her for custody before trial.

(j) Once the arresting officer has prepared the written notice to appear and has delivered a copy to the person arrested, the officer shall deliver the remaining original and all copies as provided by subdivision (e).

Any person, including the arresting officer and any member of the officer's department or agency, or any peace officer, who alters, conceals, modifies, nullifies, or destroys, or causes to be altered, concealed, modified, nullified, or destroyed, the face side of the remaining original or any copy of a citation that was retained by the officer, for any reason, before it is filed with the magistrate or with a person authorized by the magistrate to receive deposit of bail, is guilty of a misdemeanor.

If, after an arrested person has signed and received a copy of a notice to appear, the arresting officer determines that, in the interest of justice, the citation or notice should be dismissed, the arresting agency may recommend, in writing, to the magistrate that the charges be dismissed. The recommendation shall cite the reasons for the recommendation and shall be filed with the court.

If the magistrate makes a finding that there are grounds for dismissal, the finding shall be entered in the record and the charges dismissed.

Under no circumstances shall a personal relationship with any officer, public official, or law enforcement agency be grounds for dismissal.

CHAPTER 454

An act to add Chapter 2 (commencing with Section 61850) to Part 7 of Division 3 of Title 6 of the Government Code, and to amend Sections 22438, 30540, 30541, 30542, 30543, 30545, and 30582 of the Water Code, relating to water.

[Approved by Governor September 26, 1991. Filed with Secretary of State September 27, 1991.]

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

SECTION 1. Chapter 2 (commencing with Section 61850) is added to Part 7 of Division 3 of Title 6 of the Government Code, to read:

CHAPTER 2. TRANSFER OF ASSETS

61850. Notwithstanding Chapter 4 (commencing with Section 23701), Chapter 7 (commencing with Section 24341), Chapter 8 (commencing with Section 24451), Chapter 9 (commencing with Section 24501), Chapter 10 (commencing with Section 24521), and Chapter 15 (commencing with Section 24901) of, Part 11 of Division 2 of the Revenue and Taxation Code, the transfer of the assets of the Stonehouse Mutual Water Company, including its lands, easements, rights and obligations to act as sole agent of the stockholders in exercising the riparian rights of the stockholders, and rights relating to the ownership, operation, and maintenance of water and sewer facilities serving the customers of the company, to the Hidden Valley Lake Community Services District, is not a transfer subject to taxes imposed by Part 11 (commencing with Section 23001) of Division 2 of the Revenue and Taxation Code if both of the following requirements are met:

(a) The consideration for the transfer of all or substantially all of the assets is the assumption by the district of the company's liability to provide service to the company's stockholders.

(b) The legal or beneficial title to all or substantially all of the company's assets is vested in the district on or before January 1, 1995.

(c) For the one-year period immediately prior to commencement of the transfer and continuing until the transfer is completed, 85 percent or more of the company's income consists of amounts collected from stockholders for the sole purpose of meeting losses and expenses.

SEC. 2. Section 22438 of the Water Code is amended to read:

22438. (a) A district which is the owner of an easement for an open canal or other water conveyance facility for the transportation of water across lands not owned by the district, other than an easement evidenced by a written grant or judgment providing a legal description of the easement, has a secondary easement on each side of the open canal or other water conveyance facility for the maintenance, repair, cleaning, operation, and control of the open canal or other water conveyance facility and other use as may reasonably be required by the district in exercising those rights and in the maintenance, repair, cleaning, and operation of that easement and open canal or other water conveyance facility with equipment owned by, or available to, the district for that use at the time the rights are exercised. The duration of the secondary easement shall be for as long as the district, or its successors or assigns, continues to own the open canal or other water conveyance facility easement regardless of what use has or has not been made of the secondary easement.

(b) The owner or any lessee of the land upon which a secondary easement is located may use the surface of the land upon which the secondary easement is located for his or her own purposes to the extent that use does not unreasonably interfere with the district's ownership or use of the secondary easement or the open canal or other water conveyance facility easement. Any encroachment or obstruction placed or permitted upon the secondary easement by the owner or any lessee of the land, which unreasonably interferes with the secondary easement or the open canal or other water conveyance facility easement, may be removed by the district at the owner's or lessee's expense, or by legal action filed by the district.

(c) This section shall not be construed to limit the right of a district or of any person to acquire any easement by prescription or condemnation or to enter into a written agreement concerning an easement or secondary easement upon terms agreed to by the parties.

SEC. 3. Section 30540 of the Water Code is amended to read:

30540. (a) The board shall, at its first meeting or as soon thereafter as practicable, appoint by a majority vote a general manager and a secretary.

(b) The board shall also, by majority vote, do either of the following:

(1) Appoint an auditor or treasurer to carry out the duties required by Section 30582 and other duties required by the board.

(2) Retain an auditor as an independent contractor to conduct an annual audit of the district's books, records, and financial affairs.

SEC. 4. Section 30541 of the Water Code is amended to read:

30541. A director shall not be the general manager, secretary, treasurer, or auditor.

SEC. 5. Section 30542 of the Water Code is amended to read:

30542. The general manager, secretary, treasurer, and auditor shall each receive the compensation determined by the board and

shall serve at its pleasure.

SEC. 6. Section 30543 of the Water Code is amended to read:

30543. The same person may serve as general manager and secretary, secretary and auditor, or secretary and treasurer.

SEC. 7. Section 30545 of the Water Code is amended to read:

30545. The general manager, secretary, auditor, treasurer, and other employees or assistants of the district, as required by the board, shall each give a bond to the district conditioned for the faithful performance of his or her duties as the board may provide.

SEC. 8. Section 30582 of the Water Code is amended to read:

30582. If the board appoints an auditor or treasurer pursuant to Section 30540, the auditor or treasurer shall install and maintain a system of auditing and accounting that shall completely and at all times show the financial condition of the district.

SEC. 9. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 455

An act to amend Section 68076 of the Education Code, relating to postsecondary education.

[Approved by Governor September 26, 1991. Filed with Secretary of State September 27, 1991]

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

SECTION 1. Section 68076 of the Education Code is amended to read:

68076. (a) Notwithstanding Section 68062, a student who (1) has not been an adult resident of California for more than one year and (2) is either the dependent child of a California resident who has had residence in California for more than one year prior to the residence determination date, or has a parent who has both contributed court-ordered support for the student on a continuous basis and has been a California resident for a minimum of one year, shall be entitled to resident classification. This exception shall continue until the student has resided in the state the minimum time necessary to become a resident, so long as continuous attendance is maintained at an institution.

(b) No provision of this section shall apply to the University of California unless the Regents of the University of California adopt a

resolution to that effect.

SEC. 2. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 456

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

[Approved by Governor September 27, 1991 Filed with Secretary of State September 27, 1991]

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

SECTION 1. The Legislature finds and declares, based upon geological investigations, that part of the Inglewood/Newport fault line passes directly under portions of the two main instructional classroom buildings at Los Angeles Southwest Community College. According to qualified structural engineers, this recently discovered fault line presents a serious earthquake safety hazard to students and faculty. Engineers predict the possibility of a major structural failure of the buildings if an earthquake produces a rupture of the fault line.

SEC. 2. It is the intent of the Legislature that sufficient funds, as determined by the Department of Finance, contained in the June 1990 Higher Education Capital Outlay Bond Fund, created pursuant to Section 67346 of the Education Code, immediately be made available to the Los Angeles Southwest Community College to enable the district to undertake a seismic hazard reduction project to accomplish the following:

(a) Relocate classes from the main instructional buildings to temporary facilities.

(b) Commence partial demolition of the main instructional buildings.

(c) Plan for construction of permanent replacement buildings to provide for ultimate relocation of the students and faculty.

SEC. 3. The sum of two million five hundred seventy-two thousand dollars ($2,572,000) is hereby appropriated from the June

1990 Higher Education Capital Outlay Bond Fund created pursuant to Section 67346 of the Education Code, to the Board of Governors of the California Community Colleges for allocation to the Los Angeles Community College District for the purpose of a seismic reduction project at the Los Angeles Southwest Community College. The project shall include all of the following:

(a) Soils studies, preliminary plans, working drawings and construction for site development and infrastructure for location of temporary instructional buildings, including moving costs, and partial demolition of the two main instructional buildings.

(b) The planning necessary to revise the campus master plan and develop capital outlay budget change proposals for construction of permanent instructional buildings that provide for the ultimate replacement of portions of the main education buildings that are to be demolished.

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

In order that the seismic reduction project at the Los Angeles Southwest Community College may be undertaken as soon as possible, thereby reducing the risk of injury to faculty and students, it is necessary that this act take effect immediately.

CHAPTER 457

An act relating to school facilities, and making an appropriation therefor.

[Approved by Governor September 27, 1991 Filed with Secretary of State September 27, 1991]

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

SECTION 1. The sum of four hundred twenty-eight thousand dollars ($428,000) is hereby reappropriated from Item 6870-103-001 of the Budget Act of 1990 to the Chancellor of the California Community Colleges to lease relocatable classrooms for use at Los Angeles Southwest College in response to a condition which is threatening the health and safety of students as a result of a newly discovered surface seismic fault under the college's only instructional classroom building.

CHAPTER 458

An act to amend Section 6050 of the Financial Code, relating to financial institutions.

[Approved by Governor September 30, 1991 Filed with Secretary of State September 30, 1991]

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

SECTION 1. Section 6050 of the Financial Code is amended to read:

6050. (a) The register of stockholders or members, the books of account, and the minutes of an association shall be subject to inspection upon the written demand of any stockholder or member or group of stockholders or members at any reasonable time during usual business hours, for a proper purpose reasonably related to the stockholder's or member's interest. The right of inspection is limited to a stockholder, or member, or group of stockholders or members, who hold of record voting shares having a cost of not less than one hundred thousand dollars ($100,000), or who hold of record voting shares constituting not less than 1 percent of the outstanding voting shares, provided in either case, the stockholder, member, or group of stockholders or members, have been holders of record of the voting shares for at least six months before making the written demand. The right of inspection created by this subdivision shall extend to the records of each subsidiary of an association subject to this subdivision and includes the right to make extracts.

(b) Notwithstanding the right of inspection granted in subdivision (a), no stockholder, member, or group of stockholders or members, shall have the right to inspect or make extracts of any portion of any register, book, or minutes of an association containing any of the following:

(1) A list of depositors in or borrowers from the association.

(2) The addresses of depositors or borrowers from the association.

(3) Individual deposit or loan balances or records. "Records" for the purposes of this paragraph means confidential facts pertaining to personal financial information about an individual, including, but not limited to, an individual's credit file and any loan application.

(4) Any data from which any of the information described in paragraphs (1) to (3), inclusive, could be reasonably constructed.

(c) Each association director shall have the right at any reasonable time to inspect all books, records, documents of every kind, and the physical properties of that association. The inspection may be made in person or by agent or attorney, and the right of inspection includes the right to make extracts. In the case of foreign associations the right of inspection extends only to books, records, documents, and property located in this state.

(d) Savings accountholders who are not stockholders, members,

or directors of an association shall have no right of inspection under this section.

CHAPTER 459

An act to amend Section 40803 of, and to amend and repeal Section 40802 of, the Vehicle Code, relating to vehicles.

[Approved by Governor September 30, 1991. Filed with Secretary of State September 30, 1991]

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

SECTION 1. Section 40802 of the Vehicle Code, as amended by Section 1 of Chapter 833 of the Statutes of 1986, is amended to read:

40802. A "speed trap" is either of the following:

(a) A particular section of a highway measured as to distance and with boundaries marked, designated, or otherwise determined in order that the speed of a vehicle may be calculated by securing the time it takes the vehicle to travel the known distance.

(b) A particular section of a highway with a prima facie speed limit provided by this code or by local ordinance pursuant to paragraph (1) of subdivision (b) of Section 22352, or established pursuant to Section 22354, 22357, 22358, or 22358.3, which speed limit is not justified by an engineering and traffic survey conducted within five years prior to the date of the alleged violation, and where enforcement involves the use of radar or other electronic devices which measure the speed of moving objects. This subdivision does not apply to local streets and roads.

For purposes of this section, local streets and roads shall be defined by the latest functional usage and federal-aid system maps as submitted to the Federal Highway Administration. When these maps have not been submitted, the following definition shall be used: A local street or road primarily provides access to abutting residential property and shall meet the following three conditions:

(1) Roadway width of not more than 40 feet.

(2) Not more than one-half mile of uninterrupted length. Interruptions shall include official traffic control devices as defined in Section 445.

(3) Not more than one traffic lane in each direction.

SEC. 2. Section 40802 of the Vehicle Code, as amended by Section 2 of Chapter 833 of the Statutes of 1986, is repealed.

SEC. 3. Section 40803 of the Vehicle Code is amended to read:

40803. (a) No evidence as to the speed of a vehicle upon a highway shall be admitted in any court upon the trial of any person for an alleged violation of this code when the evidence is based upon or obtained from or by the maintenance or use of a speed trap.

(b) In any prosecution under this code of a charge involving the

speed of a vehicle, where enforcement involves the use of radar or other electronic devices which measure the speed of moving objects, the prosecution shall establish, as part of its prima facie case, that the evidence or testimony presented is not based upon a speed trap as defined in subdivision (b) of Section 40802.

(c) When a traffic and engineering survey is required pursuant to subdivision (b) of Section 40802, evidence that a traffic and engineering survey has been conducted within five years of the date of the alleged violation or evidence that the offense was committed on a local street or road as defined in subdivision (b) of Section 40802 shall constitute a prima facie case that the evidence or testimony is not based upon a speed trap as defined in subdivision (b) of Section 40802.

CHAPTER 460

An act to amend Items 3940-001-001 and 3940-001-193 of Section 2.00 of the Budget Act of 1991, relating to water, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 30, 1991. Filed with Secretary of State September 30, 1991.]

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

SECTION 1. Item 3940-001-001 of Section 2.00 of the Budget Act of 1991 is amended to read:

3940-001-001—For support of State Water Resources Control Board		38,933,000
Schedule:		
(a) 10-Water Quality	162,107,000	
(b) 20-Water Rights	9,314,000	
(c) 30.01-Administration	10,472,000	
(d) 30.02-Distributed Administration	—10,472,000	
(dx) Unallocated trigger reduction	—43,000	
(e) Reimbursements	—4,700,000	
(f) Amount payable from the Hazardous Waste Control Account, General Fund (Item 3940-001-014)	—766,000	
(g) Amount payable from the Waste Discharge Permit Fund (Item 3940-001-193)	—7,350,000	
(h) Amount payable from the Environmental Protection Trust Fund (Item 3940-001-225)	—2,164,000	

(i) Amount payable from the Public Resources Account, Cigarette and Tobacco Products Surtax Fund (Item 3940-001-235) ..... —780,000
(j) Amount payable from the Bay Protection and Toxic Cleanup Fund (Item 3940-001-282) ..... —2,450,000
(k) Amount payable from the Underground Storage Tank Tester Account (Item 3940-001-436) ..... —284,000
(*l*) Amount payable from the Underground Storage Tank Cleanup Fund (Item 3940-001-439) ..... —70,355,000
(m) Amount payable from the Underground Storage Tank Fund (Item 3940-001-475) ..... —1,206,000
(n) Amount payable from the Surface Impoundment Assessment Account, General Fund (Item 3940-001-482) ..... —3,179,000
(o) Amount payable from the 1984 State Clean Water Bond Fund (Item 3940-001-740) ..... —549,000
(p) Amount payable from the 1986 Water Conservation and Water Quality Bond Fund (Item 3940-001-744) ..... —299,000
(q) Amount payable from the 1988 Clean Water and Water Reclamation Fund (Item 3940-001-764) .... —782,000
(r) Amount payable from the Federal Trust Fund (Item 3940-001-890) ..—37,581,000

Provisions:

1. Notwithstanding any other provisions of law, upon approval and order of the Director of Finance, the State Water Resources Control Board may borrow sufficient funds, from special funds which otherwise provide support for the board, for cash purposes. Any such loans are to be repaid with interest at the Pooled Money Investment Account rate.
2. It is the intent of the Legislature that revenues to support the activities of the State Water Resources Control Board be derived, in part or in full, from various fees which the board is, or will be, authorized to collect. These fees may include a new or increased water rights fee.

SEC. 2. Item 3940-001-193 of Section 2.00 of the Budget Act of 1991 is amended to read:

3940-001-193—For support of State Water Resources Control Board, for payment to Item 3940-001-001, payable from the Waste Discharge Permit Fund.. 7,350,000

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

In order to help ensure that California water resources are protected and to avoid endangerment of regulatory water quality and water rights programs, it is essential that this act take effect immediately.

CHAPTER 461

An act to add Sections 6362.7 and 6362.8 to the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor September 30, 1991. Filed with Secretary of State October 1, 1991]

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

SECTION 1. Section 6362.7 is added to the Revenue and Taxation Code, to read:

6362.7. There are exempted from the taxes imposed by this part, the gross receipts from the sale of, and the storage, use, or other consumption in this state, of tangible personal property which becomes an ingredient or component part of any newspaper or periodical that is distributed without charge and regularly issued at average intervals not exceeding three months, and any such newspaper or periodical.

SEC. 2. Section 6362.8 is added to the Revenue and Taxation Code, to read:

6362.8. (a) There are exempted from the taxes imposed by this part, the gross receipts from the sale of, and the storage, use, or other consumption in this state, of tangible personal property that becomes an ingredient or component part of any newspaper or periodical, or any such newspaper or periodical.

(b) This section shall apply only with respect to any of the following:

(1) Any newspaper or periodical published or purchased by an organization that qualifies for tax-exempt status under Section 501(c)(3) of the Internal Revenue Code, and to which any of the following apply:

(A) Distribution is to the members of the organization in consideration of payment of the organization's membership fee, or

to the organization's contributors.

(B) The publication does not receive revenue from, or accept, any commercial advertising.

(2) Any newspaper or periodical distributed by a nonprofit organization for which both of the following apply:

(A) Distribution is to any member of the nonprofit organization in consideration, in whole or in part, of payment of the organization's membership fee.

(B) The amount paid or incurred by the nonprofit organization for the cost of printing the newspaper or periodical is less than 10 percent of the membership fee attributable to the period for which the newspaper or periodical is distributed.

SEC. 3. The State Board of Equalization may adopt emergency regulations, regarding any change made by this act, in accordance with Chapter 3.5 (commencing with Section 11340) of Division 3 of Title 2 of the Government Code.

SEC. 4. Notwithstanding Section 2230 of the Revenue and Taxation Code, no appropriation is made by this act, and the state shall not reimburse any local agency for any sales and use tax revenues lost by it under this act.

SEC. 5. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect. However, the provisions of this act shall become operative on the first day of the first month after the effective date of this act.

CHAPTER 462

An act to add Sections 12945.2 and 19702.3 to the Government Code, relating to employment.

[Approved by Governor September 30, 1991 Filed with Secretary of State October 1, 1991]

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

SECTION 1. This act shall be known, and may be cited as, the Family Rights Act of 1991.

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

(a) The United States is the only industrialized country that does not have a mandated policy on child care leave.

(b) There is a shortage of out-of-home child care, particularly for infants.

(c) More than 60 percent of the women of childbearing age in the United States are in the work force and 40 percent of these women have children under three years of age.

(d) Because of the changing roles of men and women in the work force and the family, and the need to promote stability and economic security in families, both men and women should have the option of

taking leave for child-rearing purposes.

(e) Close contact between parent and child is in the best interest of the child, particularly during the child's infancy and early years, and this contact promotes family stability.

SEC. 3. The Legislature further finds and declares all of the following:

(a) The percentage of adults who care for their parents due to physical and mental disabilities is growing. Surveys indicate that about one-quarter of all workers must provide elder care support, and that 64 percent of senior Californians live with relatives.

(b) Independent living situations are generally preferable to institutionalization as physical caretaking and emotional support are best performed by families.

(c) The current trends towards home care, while providing for the health and well-being of families, adds to the tension between work demands and family needs.

(d) Due to a lack of available and affordable care for elder persons, particularly in rural areas, and limited alternative housing arrangements, there is a need for care to be provided for elder persons by family members.

(e) In the past, care for aged parents was provided principally by daughters. Today, a majority of women are in the work force and jeopardize their employment and career opportunities to provide this care.

(f) The state, like the rest of the country, is experiencing dramatic demographic changes. Among the most significant of these changes is the growing number of elderly in our society. On the national level, more than 2.2 million family members provide unpaid help to ailing relatives, the most common caregivers being a child or spouse. About 38 percent of those caring for elderly relatives are children, and 35 percent are spouses.

(g) One-fifth of Americans 65 years of age and older must receive home care or be confined to hospitals or nursing homes. Facilitating care for them at home can present economic savings to the health system, seniors, care givers, and employers.

(h) The need for elder care is expected to increase as the demographic trends indicate an increasingly aging society.

SEC. 4. Section 12945.2 is added to the Government Code, to read:

12945.2. (a) It shall be an unlawful employment practice for any employer of 50 or more employees to refuse to grant a request by any employee with more than one year of continuous service with the employer, who meets all requirements of this section, and who is eligible for other benefits to take up to a total of four months in a 24-month period for family care leave. Family care leave requested pursuant to this subdivision shall not be deemed to have been granted unless the employer provides the employee, upon granting the leave request, a guarantee of employment in the same or a comparable position upon the termination of the leave. The

commission shall adopt a regulation specifying the elements of a reasonable request.

(b) For purposes of this section:

(1) "Child" means a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing in loco parentis who is either of the following:

(A) Under 18 years of age.

(B) An adult dependent child.

(2) "Employer" means any person who directly employs 50 or more persons to perform services for a wage or salary.

(3) "Family care leave" means either of the following:

(A) Leave for reason of the birth of a child of the employee, the placement of a child with an employee in connection with the adoption of the child by the employee, or the serious illness of a child of the employee .

(B) Leave to care for a parent or a spouse who has a serious health condition.

(4) "Employment in the same or a comparable position" means employment in a position that has the same or similar duties and pay which can be performed at the same or similar geographic location as the position held prior to the leave.

(5) "Health care provider" means an individual holding either a physician's and surgeon's certificate issued pursuant to Article 4 (commencing with Section 2080) of Chapter 5 of Division 2 of the Business and Professions Code or an osteopathic physician's and surgeon's certificate issued pursuant to Article 4.5 (commencing with Section 2099.5) of Chapter 5 of Division 2 of the Business and Professions Code.

(6) "Parent" means a biological, foster, or adoptive parent, a stepparent, or a legal guardian.

(7) "Serious health condition" means an illness, injury, impairment, or physical or mental condition which warrants the participation of a family member to provide care during a period of the treatment or supervision and involves either of the following:

(A) Inpatient care in a hospital, hospice, or residential health care facility.

(B) Continuing treatment or continuing supervision by a health care provider.

(c) An employer shall not be required to pay an employee for any leave taken pursuant to subdivision (a), except as required by subdivision (d).

(d) An employee taking a leave permitted by subdivision (a) may elect, or an employer may require the employee, to substitute for leave allowed under subdivision (a), any of the employee's accrued vacation leave or other accrued time off during this period or any other paid or unpaid time off negotiated with the employer. However, an employee shall not use sick leave during the period of the family care leave unless mutually agreed to by the employer and the employee.

(e) Any employee taking leave pursuant to subdivision (a) shall continue to be entitled to participate in health plans, pension and retirement plans, and supplemental unemployment benefit plans to the same extent and under the same conditions as apply to an unpaid leave taken for any purpose other than family care. In the absence of these conditions, an employee shall continue to be entitled to participate in these plans, and in the case of health and welfare employee benefit plans, including group medical, life, short-term or long-term disability or accident insurance, or other similar plans, the employer may, at his or her discretion, require the employee to pay premiums, at the group rate, during the period of leave not covered by any accrued vacation leave, or other accrued time off, or any other paid or unpaid time off negotiated with the employer, as a condition of continued coverage during the leave period. However, the nonpayment of premiums by an employee shall not constitute a break in service, for purposes of longevity, seniority under any collective bargaining agreement, or any employee benefit plan.

For purposes of pension and retirement plans, an employer shall not be required to make plan payments for an employee during the leave period, and the leave period shall not be required to be counted for purposes of time accrued under the plan. However, an employee covered by a pension plan may continue to make contributions in accordance with the terms of the plan during the period of the leave.

(f) During a family care leave period, the employee shall retain employee status with the employer, and the leave shall not constitute a break in service, for purposes of longevity, seniority under any collective bargaining agreement, or any employee benefit plan. An employee returning from leave shall return with no less seniority than the employee had when the leave commenced, for purposes of layoff, recall, promotion, job assignment, and seniority-related benefits such as vacation.

(g) If the employee's need for a leave pursuant to this section is foreseeable, the employee shall provide the employer with reasonable advance notice of the need for the leave.

(h) If the employee's need for leave pursuant to this section is foreseeable due to a planned medical treatment or supervision, the employee shall make a reasonable effort to schedule the treatment or supervision to avoid disruption to the operations of the employer, subject to the approval of the health care provider of the individual requiring the treatment or supervision.

(i) (1) An employer may require that an employee's request for leave to care for a child, a spouse, or a parent who has a serious health condition be supported by a certification issued by the health care provider of the individual requiring care. That certification shall be sufficient if it includes all of the following:

(A) The date on which the serious health condition commenced.

(B) The probable duration of the condition.

(C) An estimate of the amount of time that the health care

provider believes the employee needs to care for the individual requiring the care.

(D) A statement that the serious health condition warrants the participation of a family member to provide care during a period of the treatment or supervision of the individual requiring care.

(2) Upon expiration of the time estimated by the health care provider in subparagraph (C), the employer may require the employee to obtain recertification in accordance with the procedure provided in paragraph (1), if additional leave is required.

(j) It shall be an unlawful employment practice for an employer to refuse to hire, or to discharge, fine, suspend, expel, or discriminate against, any individual because of any of the following:

(1) An individual's exercise of the right to family care leave provided by subdivision (a).

(2) An individual's giving information or testimony as to his or her own family care leave, or another person's family care leave, in any inquiry or proceeding related to rights guaranteed under this section.

(k) This section shall not be construed to require any changes in existing collective bargaining agreements during the life of the contract, or until January 1, 1993, whichever occurs first.

(*l*) The provisions of this section shall be construed as separate and distinct from those of Section 12945. However, leave taken pursuant to this section shall be no more than one month when used in conjunction with the maximum leave under Section 12945, unless the employer and employee agree otherwise.

(m) This section shall not entitle the employee to receive disability benefits under Part 1 (commencing with Section 3200) of Division 4 of the Labor Code.

(n) Leave provided for pursuant to this section may be taken in one or more periods but shall not exceed a total of four months within a 24-month period from the date the leave commenced unless otherwise agreed to by the employee and the employer.

(o) An employer shall not be required to grant an employee family care leave which would allow the employee and the other parent of the child family care leave totaling more than the amount specified in subdivision (a), nor to grant an employee family care leave for any period of time in which the child's other parent is also taking family care leave from employment or is unemployed.

(p) Notwithstanding subdivision (a), an employer may refuse to grant a request for family care leave made by an employee if this refusal is necessary to prevent undue hardship to the employer's operations.

(q) Notwithstanding subdivision (a), an employer may refuse to grant a request for family care leave made by a salaried employee who, on the date the request for family care leave is made, is either one of the five highest paid employees, or is among the top 10 percent of the employees in terms of gross salary, whichever group encompasses the greater number of persons, employed by the

employer at the same location.

SEC. 5. Section 19702.3 is added to the Government Code, to read:

19702.3. (a) An appointing authority shall not refuse to hire, and shall not discharge, suspend, expel, or discriminate against, any individual because of any of the following:

(1) An individual's exercise of the right to family care leave provided by subdivision (a) of Section 12945.2.

(2) An individual's giving information or testimony as to his or her own family care leave, or another person's family care leave, in any inquiry or proceeding related to rights guaranteed under Section 12945.2.

(b) This section shall not be construed to require any changes in existing collective bargaining agreements during the life of the contract, or until January 1, 1993, whichever occurs first.

(c) An appointing authority's obligation to provide family care leave, other than for birth or adoption of a child, resulting in costs incurred by the state shall be contingent upon provision in the annual Budget Act.

SEC. 6. In adopting the regulations required by Section 12945.2 of the Government Code, as contained in Section 4 of this act, the Fair Employment and Housing Commission shall consider and specify all of the following:

(a) The length of time necessary for appropriate advance notice for a leave request submitted pursuant to subdivision (a) of Section 12945.2 of the Government Code.

(b) The appropriate minimum duration of family care leave. This paragraph shall not be construed as permitting an employer to deny a reasonable family care leave request for a period in excess of the appropriate minimum duration for family care leaves.

(c) What would constitute undue hardship for denial or deferral of family care leave.

(d) What accommodation of the employee's family care rights short of granting a leave would be reasonable.

SEC. 7. Within two years of the effective date of this act, the Legislative Analyst, in consultation with the Secretary of the Business, Transportation and Housing Agency, shall report to the Governor and the Legislature on the impact, if any, of the requirements of this act, including the costs, benefits, and impact on productivity, of family care leave on employers.

SEC. 8. It is the intent of the Legislature that this act shall not affect any rights of state employees under Section 19991.6 of the Government Code or Section 89519 of the Education Code.

CHAPTER 463

An act to amend Section 6920 of, and to add Article 1.5 (commencing with Section 6810) to Chapter 6 of Division 6 of, the Elections Code, relating to elections.

[Approved by Governor September 30, 1991. Filed with Secretary of State October 1, 1991.]

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

SECTION 1. Article 1.5 (commencing with Section 6810) is added to Chapter 6 of Division 6 of the Elections Code, to read:

Article 1.5. Declaration of Intention

6810. (a) A candidate shall file a written and signed declaration of his or her intention to become a candidate for elective office. The declaration shall be left with the officer with whom his or her nomination papers are required to be left, on a form to be supplied by the county elections official, not more than 14 nor less than five days prior to the first day on which nomination papers may be presented by a candidate seeking a party nomination for that office. The declaration shall be substantially in the following form:

"I hereby declare my intention to become a candidate for the office of _____ (name of office and district, if any) at the November _____, 19__, general election."

(b) No person may be a candidate nor have his or her name printed upon any ballot as a candidate for elective office unless he or she has filed a declaration of intention pursuant to this section.

SEC. 2. Section 6920 of the Elections Code is amended to read:

6920. Each candidate, at least 88 days prior to the election, shall leave with the officer with whom his or her nomination papers are required to be left a declaration of candidacy which states all of the following:

(a) The candidate's residence, with street and number, if any.

(b) That the candidate is a voter in the precinct in which he or she resides.

(c) The name of the office for which he or she is a candidate.

(d) That the candidate will not withdraw as a candidate before the election.

(e) That, if elected, the candidate will qualify for the office.

(f) That the candidate is not, and was not at any time during the 13 months preceding the general election at which a candidate for the office mentioned in the declaration of candidacy shall be elected, registered as affiliated with a political party qualified under Section 6430.

The name of a candidate shall not be placed on the ballot unless the declaration of candidacy provided for in this section has been

properly filed.

SEC. 3. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 464

An act to amend Section 904.6 of, and to repeal Sections 904.5, 904.7, 904.8, and 904.9 of, the Penal Code, relating to grand juries, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 1, 1991. Filed with Secretary of State October 2, 1991.]

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

SECTION 1. Section 904.5 of the Penal Code is repealed.

SEC. 2. Section 904.6 of the Penal Code is amended to read:

904.6. (a) In any county or city and county, the presiding judge of the superior court may order and direct the impanelment, at any time, of one additional grand jury pursuant to this section.

(b) The presiding judge shall select persons, at random, from the list of trial jurors in civil and criminal cases and shall examine them to determine if they are competent to serve as grand jurors. When a sufficient number of competent persons have been selected, they shall constitute the additional grand jury.

(c) Any additional grand jury which is impaneled pursuant to this section may serve for a period of one year from the date of impanelment, but may be discharged at any time within the one-year period by order of the presiding judge. In no event shall more than one additional grand jury be impaneled pursuant to this section at the same time.

(d) Whenever an additional grand jury is impaneled pursuant to this section, it may inquire into any matters which are subject to grand jury inquiry and shall have the sole and exclusive jurisdiction to return indictments, except for any matters which the regular grand jury is inquiring into at the time of its impanelment.

(e) It is the intent of the Legislature that all persons qualified for jury service shall have an equal opportunity to be considered for

service as criminal grand jurors in the county in which they reside, and that they have an obligation to serve, when summoned for that purpose. All persons selected for the additional criminal grand jury shall be selected at random from a source or sources reasonably representative of a cross section of the population which is eligible for jury service in the county.

SEC. 3. Section 904.7 of the Penal Code is repealed.

SEC. 4. Section 904.8 of the Penal Code is repealed.

SEC. 5. Section 904.9 of the Penal Code is repealed.

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

In order to enable counties which need to establish separate grand juries to handle criminal cases as soon as possible, it is necessary that this act take effect immediately.

CHAPTER 465

An act to amend Section 98.9 of the Revenue and Taxation Code, relating to property taxation.

[Approved by Governor October 1, 1991 Filed with Secretary of State October 2, 1991]

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

SECTION 1. Section 98.9 of the Revenue and Taxation Code is amended to read:

98.9. Notwithstanding any other provision of law, commencing with the 1988–89 fiscal year, property tax assessed value attributable to unitary and operating nonunitary property, as defined in Section 723, and Section 723.1, which is assessed by the State Board of Equalization shall be allocated by county as provided in Section 756, and the assessed value and revenues attributable to that allocation shall be allocated within each county as follows:

(a) Each county shall establish one countywide tax rate area. The assessed value of all unitary and operating nonunitary property shall be assigned to this tax rate area. No other property shall be assigned to this tax rate area.

(b) Property assigned to the tax rate area created by subdivision (a) shall be taxed at a rate equal to the sum of the following two rates:

(1) A rate determined by dividing the county's total ad valorem tax levies for the secured roll, including levies made pursuant to Section 100, for the prior year, exclusive of levies for debt service, by the county's total ad valorem secured roll assessed value for the prior year.

(2) A rate determined as follows:

(A) By dividing the county's total ad valorem tax levies for unitary and operating nonunitary property for the prior year debt service only by the county's total unitary and operating nonunitary assessed value for the prior year.

(B) Beginning with the 1989–90 fiscal year, adjusting the rate determined pursuant to subparagraph (A) by the percentage change between the two preceding fiscal years in the county's ad valorem debt service levy for the secured roll, not including unitary and operating nonunitary debt service.

(c) The property tax revenue derived from the assessed value assigned to the countywide tax rate area pursuant to subdivision (a) by the use of the tax rate determined in paragraph (1) of subdivision (b) shall be allocated as follows:

(1) For the 1988–89 fiscal year and each fiscal year thereafter, each taxing jurisdiction shall be allocated an amount of property tax revenue equal to 102 percent of the amount of the aggregate property tax revenue it received from all unitary and operating nonunitary property in the prior fiscal year, exclusive of revenue attributable to levies for debt service.

(2) If the amount of property tax revenue available for allocation in the current fiscal year is insufficient to make the allocations required by paragraph (1), the amount of revenue to be allocated to each taxing jurisdiction shall be prorated based on a factor determined by dividing the total amount of property tax revenue available to all taxing jurisdictions from unitary and operating nonunitary property in the current year, exclusive of revenue attributable to levies for debt service, by the total amount of property tax revenue received by all taxing jurisdictions from unitary and operating nonunitary property in the prior fiscal year, exclusive of revenue attributable to levies for debt service.

(3) If the amount of property tax revenue available for allocation to all taxing jurisdictions in the current fiscal year from unitary and operating nonunitary property, exclusive of revenue attributable to levies for debt service, exceeds 102 percent of the property tax revenue received by all taxing jurisdictions from all unitary and operating nonunitary property in the prior fiscal year, exclusive of revenue attributable to levies for debt service, the amount of revenue in excess of 102 percent shall be allocated to all taxing jurisdictions in the county by a ratio determined by dividing each taxing jurisdiction's share of the county's total ad valorem tax levies for the secured roll for the prior year, exclusive of levies for debt service, by the county's total ad valorem tax levies for the secured roll for the prior year, exclusive of levies for debt service.

(d) The property tax revenue derived from the assessed value assigned to the countywide tax rate area pursuant to subdivision (a) by the use of the tax rate determined in paragraph (2) of subdivision (b) shall be allocated as follows:

(1) An amount shall be computed for each taxing jurisdiction which shall be determined by multiplying the amounts required in

the current year pursuant to subdivisions (a) and (c) of Section 93 by that percentage which shall be determined by dividing the amount of property tax revenue the jurisdiction received in the prior year from unitary property and operating nonunitary property by the total amount of property tax revenue the jurisdiction received in the prior year from all property.

(2) The amount of property tax revenue available for allocation pursuant to this subdivision shall be allocated among taxing jurisdictions in the proportion that the amount computed for each taxing jurisdiction pursuant to paragraph (1) bears to the total amount computed pursuant to paragraph (1) for all taxing jurisdictions.

(3) If a taxing jurisdiction is levying a tax rate for debt service for the first time in the current fiscal year, for purposes of determining the percentage specified in paragraph (1), that percentage shall be the percentage determined by dividing the amount of property tax revenue received by that taxing jurisdiction in the prior year pursuant to subdivision (c) from unitary and operating nonunitary property by the total amount of property tax revenue received by that taxing jurisdiction in the prior year from all property within the taxing jurisdiction.

(e) For purposes of this section:

(1) "The county's total ad valorem tax levies for the secured roll" means all ad valorem tax levies for the county's secured roll, including the general tax levy, levies for debt service (including land only and land and improvement rates), and levies for redevelopment agencies.

(2) "The county's total ad valorem secured roll" means the county's local roll, after all exemptions except the homeowner's exemption, and the county's utility roll.

(3) "Taxing jurisdiction" includes a redevelopment agency, and a Special District Augmentation Fund created pursuant to Section 98.6.

(f) The assessed value of the unitary and operating nonunitary property shall be kept separate for each state assessee throughout the allocation process.

(g) Each state assessee shall be issued only one tax bill for all unitary and operating nonunitary property within the county.

(h) This section does not apply to unitary property of regulated railway companies.

(i) This section does not apply to property which on July 1, 1987, was undeveloped and owned by a utility and which is located within a city, county, or city and county which adopts a resolution stating that the property is subject to a development plan or agreement and that this section shall not apply to that property, and the city, county, or city and county transmits a copy of that resolution, including a legal description of the property, to the State Board of Equalization and the county's auditor-controller prior to January 1, 1988.

(j) (1) For property that on July 1, 1990, was undeveloped and

owned by a utility and that is located within a city, county, or city and county that adopts a resolution stating that the property is subject to a development plan or agreement and that this subdivision applies to that property, and the city, county, or city and county transmits a copy of that resolution, including a legal description of the property, to the county auditor prior to August 1, 1991, the allocation of property tax revenues derived with respect to that property pursuant to Sections 97, 97.35, 97.36, 97.41, 97.5, and 97.65, shall be subject to the allocation required by paragraph (2).

(2) The county auditor shall annually allocate to a city, county, or city and county, that has adopted and transmitted a resolution pursuant to paragraph (1), the amount of property tax revenues derived with respect to the property described in paragraph (1) that would be allocated to that city, county, or city and county if that property were subject to assessment by the county assessor. In order to provide the allocations required by this paragraph, the county auditor shall make any necessary pro rata reductions in allocations to local agencies other than that city, county, or city and county adopting and transmitting a resolution pursuant to paragraph (1), of property tax revenues derived with respect to the property described in paragraph (1).

CHAPTER 466

An act to amend Section 53313.5 of the Government Code, relating to community facilities districts.

[Approved by Governor October 1, 1991 Filed with Secretary of State October 2, 1991]

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

SECTION 1. Section 53313.5 of the Government Code is amended to read:

53313.5. A community facilities district may also finance the purchase, construction, expansion, improvement, or rehabilitation of any real or other tangible property with an estimated useful life of five years or longer or may finance planning and design work which is directly related to the purchase, construction, expansion, or rehabilitation of any real or tangible property. The facilities need not be physically located within the district. A district may not lease out facilities which it has financed except pursuant to a lease agreement or annexation agreement entered into prior to January 1, 1988. A district may only finance the purchase of facilities whose construction has been completed, as determined by the legislative body, before the resolution of formation to establish the district is adopted pursuant to Section 53325.1, except that a district may finance the purchase of facilities completed after the adoption of the

resolution of formation if the facility was constructed as if it had been constructed under the direction and supervision, or under the authority of, the local agency. For example, a community facilities district may finance facilities, including, but not limited to, the following:

(a) Local park, recreation, parkway, and open-space facilities.

(b) Elementary and secondary schoolsites and structures provided that the facilities meet the building area and cost standards established by the State Allocation Board.

(c) Libraries.

(d) Child care facilities, including costs of insuring the facilities against loss, liability insurance in connection with the operation of the facility, and other insurance costs relating to the operation of the facilities, but excluding all other operational costs. However, the proceeds of bonds issued pursuant to this chapter shall not be used to pay these insurance costs.

(e) The district may also finance the construction or undergrounding of natural gas pipeline facilities, telephone lines, facilities for the transmission or distribution of electrical energy, and cable television lines to provide access to those services to customers who do not have access to those services or to mitigate existing visual blight. The district may enter into an agreement with a public utility to utilize those facilities to provide a particular service and for the conveyance of those facilities to the public utility. If the facilities are conveyed to the public utility, the agreement shall provide for a refund by the public utility to the district or improvement area thereof for the cost of the facilities. Any reimbursement made to the district shall be utilized to reduce or minimize the special tax levied within the district or improvement area, or to construct or acquire additional facilities within the district or improvement area, as specified in the resolution of formation.

(f) The district may also pay in full all amounts necessary to eliminate any fixed special assessment liens or to repay or defease any indebtedness secured by any tax, fee, charge, or assessment levied within the area of a community facilities district or may pay debt service on that indebtedness.

(g) Any other governmental facilities which the legislative body creating the community facilities district is authorized by law to contribute revenue to, or construct, own, or operate. However, the district shall not operate or maintain or, except as otherwise provided in subdivision (d), have any ownership interest in any facilities for the transmission or distribution of natural gas, telephone service, or electrical energy.

(h) (1) A district may also pay for the following:

(A) Work deemed necessary to bring buildings, including privately owned buildings, into compliance with seismic safety standards or regulations. Only work certified as necessary to comply with seismic safety standards or regulations by local building officials may be financed. No project involving the dismantling of an existing

building and its replacement by a new building, nor the construction of a new or substantially new building may be financed pursuant to this subparagraph. Work on qualified historical buildings or structures shall be done in accordance with the State Historical Building Code (Part 2.7 (commencing with Section 18950) of Division 13 of the Health and Safety Code).

(B) In addition, within counties designated by the President of the United States as disaster areas, a district may also pay for any work deemed necessary to reconstruct, repair, shore up, or replace any building damaged or destroyed by the earthquake which occurred on October 17, 1989, or by its aftershocks. Work may be financed pursuant to this subparagraph only on buildings identified in a resolution of intention to establish a community facilities district adopted prior to October 17, 1994.

(2) Work on privately owned buildings, including reconstruction or replacement of privately owned buildings pursuant to this subdivision, may only be financed by a tax levy if all of the votes cast on the question of levying the tax, vote in favor of levying the tax. Any district created to finance seismic safety work on privately owned buildings, including reconstruction or replacement of privately owned buildings pursuant to this subdivision, shall consist only of lots or parcels on which the legislative body finds that the buildings to be worked on, reconstructed, or replaced, pursuant to this subdivision, are located or were located before being damaged or destroyed by the October 17, 1989, earthquake or its aftershocks.

(i) (1) A district may also pay for the following:

(A) Work deemed necessary to repair and abate damage caused to privately owned buildings and structures by soil deterioration. "Soil deterioration" means a chemical reaction by soils that causes structural damage or defects in construction materials including concrete, steel, and ductile or cast iron. Only work certified as necessary by local building officials may be financed. No project involving the dismantling of an existing building or structure and its replacement by a new building or structure, nor the construction of a new or substantially new building or structure may be financed pursuant to this subparagraph.

(B) Work on privately owned buildings and structures pursuant to this subdivision, including reconstruction, repair, and abatement of damage caused by soil deterioration, may only be financed by a tax levy if all of the votes cast on the question of levying the tax vote in favor of levying the tax. Any district created to finance the work on privately owned buildings or structures, including reconstruction, repair, and abatement of damage caused by soil deterioration, shall consist only of lots or parcels on which the legislative body finds that the buildings or structures to be worked on pursuant to this subdivision suffer from soil deterioration.

CHAPTER 467

An act to add Sections 1568.23, 1568.24, and 1568.25 to the Health and Safety Code, relating to Alzheimer's respite care.

[Approved by Governor October 1, 1991. Filed with Secretary of State October 2, 1991]

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

SECTION 1. The Legislature finds and declares all of the following:

(a) Alzheimer's disease and related disorders afflict nearly 600,000 people in California.

(b) The need for respite care for caregivers has grown proportionately with the growth of the disease.

(c) The responsibility for care and treatment for Alzheimer's disease and related disorders is spread among four agencies, and, therefore, a more coordinated and holistic approach to providing respite care services is necessary.

(d) The complete identification, description, and inventory of all respite care services presently offered in California can be done before expanding and coordinating respite care opportunities.

(e) It is the intent of the Legislature, in enacting this act, to expand respite care opportunities identified through this study, wherever possible, at no additional costs to the General Fund.

SEC. 2. Section 1568.23 is added to the Health and Safety Code, to read:

1568.23. The Secretary of the Health and Welfare Agency shall conduct the following activities and report to the Legislature by April 1, 1992:

(a) Identify and determine the projected costs to complete the activities described in Section 1568.24.

(b) Identify categories of services and, if available, compile all statutory and regulatory authority and definitions for "in-home" and "out-of-home" respite care which are provided for the benefit of persons with Alzheimer's disease and related disorders and other disabilities which are the responsibility of the state departments under the jurisdiction of the Health and Welfare Agency.

(c) Obtain information on the characteristics, nature, and availability of respite care services within the state for those with Alzheimer's disease and related disorders.

SEC. 3. Section 1568.24 is added to the Health and Safety Code, to read:

1568.24. The Secretary of the Health and Welfare Agency shall, contingent upon the availability of funds, conduct the following activities and report to the Legislature by July 1, 1993:

(a) Inventory and copy materials used in the preceding five years from January 1, 1992, for all formal and informal training provided

to paid staff and volunteers of services identified in subdivision (b) of Section 1568.23.

(b) Identify barriers to Alzheimer's disease and related disorders respite care opportunities in the private and public sectors, including, but not limited to, conflicting regulations, inefficient admissions procedures, lack of specialized training, and estimate the costs, if any, associated with alleviating these barriers.

(c) Detail the differences, if any, in services, programs, and activities provided to persons with Alzheimer's disease and related disorders as compared to other types of respite care services, programs, and activities using a selected sample of respite services currently available from departments within the Health and Welfare Agency and other selected sites.

(d) Include descriptions of any innovative, creative, cost-effective Alzheimer's respite care programs identified in the activities described in this section.

(e) Make recommendations to the Legislature on the need for special training, or other requirements of the providers of respite care services which would better meet the needs of persons with Alzheimer's disease and related disorders and their families.

(f) Make recommendations on expanding the availability of respite care services, improving respite care services, and enhancing the state role in providing and encouraging the development of respite care services.

SEC. 4. Section 1568.25 is added to the Health and Safety Code, to read:

1568.25. (a) The Secretary of the Health and Welfare Agency may designate a lead department within the agency which shall be responsible for the activities specified in Section 1568.24.

(b) The secretary shall consult with the Alzheimer's Disease and Related Disorders Advisory Committee and other persons, including, but not limited to, the Statewide Resources Consultant acting pursuant to Section 4334 of the Welfare and Institutions Code during the course of these activities.

CHAPTER 468

An act to add Section 41960.6 to the Health and Safety Code, relating to fuel.

[Approved by Governor October 1, 1991. Filed with Secretary of State October 2, 1991]

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

SECTION 1. The Legislature finds and declares all of the following:

(a) The State Air Resources Board has determined that there are

noteworthy health benefits to be gained from the use of hold open latches on gasoline dispensing nozzles which allow consumers to move away from escaping vapors.

(b) The state board estimates that persons refueling vehicles can virtually eliminate their personal exposure to benzene, a potent carcinogen and, since 1985, an identified toxic air contaminant, at pumps not currently equipped with Phase II vapor recovery systems, and at pumps which are currently equipped with these systems, which are designed to reduce vapor emissions by 90 percent, the state board estimates that personal exposure to benzene can be additionally reduced by an average of 75 percent, if hold open latches are installed, maintained, and used on gasoline nozzles.

(c) Hold open latches on automatic nozzles are a cost-effective means of reducing further potential cancer cases due to benzene exposure. The initial implementation cost to an average service station with several nozzles, including the cost of instructional signs and retrofit of latches, has been estimated at fifty-five dollars ($55). This compares favorably with that of other airborne toxic control measures that have been brought to the state board to date.

SEC. 2. Section 41960.6 is added to the Health and Safety Code, to read:

41960.6. (a) No retailer, as defined in subdivision (g) of Section 20999 of the Business and Professions Code, shall, on or after July 1, 1992, allow the operation of a pump, including any pump owned or operated by the state, or any county, city and county, or city, equipped with a nozzle from which gasoline or diesel fuel is dispensed, unless the nozzle is equipped with an operating hold open latch. Any hold open latch determined to be inoperative by the local fire marshal or district official shall be repaired or replaced by the retailer, within 48 hours after notification to the retailer of that determination, to avoid any applicable penalty or fine.

(b) For purposes of this section, a "hold open latch" means any device which is an integral part of the nozzle and is manufactured specifically for the purpose of dispensing fuel without requiring the consumer's physical contact with the nozzle.

(c) Subdivision (a) does not apply to nozzles at facilities which are primarily in operation to refuel marine vessels or aircraft.

(d) Nothing in this section shall affect the current authority of any local fire marshal to establish and maintain fire safety provisions for his or her jurisdiction.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the

California Constitution.

CHAPTER 469

An act to amend Section 11370.1 of the Health and Safety Code, and to amend Section 1000 of the Penal Code, relating to controlled substances.

[Approved by Governor October 1, 1991 Filed with Secretary of State October 2, 1991]

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

SECTION 1. Section 11370.1 of the Health and Safety Code is amended to read:

11370.1. (a) Notwithstanding Section 11350 or 11377 or any other provision of law, every person who unlawfully possesses any amount of a substance containing cocaine base, a substance containing cocaine, a substance containing heroin, a substance containing methamphetamine, a crystalline substance containing phencyclidine, a liquid substance containing phencyclidine, plant material containing phencyclidine, or a hand-rolled cigarette treated with phencyclidine while armed with a loaded, operable firearm is guilty of a felony punishable by imprisonment in the state prison for two, three, or four years.

As used in this subdivision, "armed with" means having available for immediate offensive or defensive use.

(b) Except as provided in Section 1000 of the Penal Code, any person who is convicted under this section shall be ineligible for diversion under Chapter 2.5 (commencing with Section 1000) of Title 6 of Part 2 of the Penal Code.

SEC. 2. Section 1000 of the Penal Code is amended to read:

1000. (a) This chapter shall apply whenever a case is before any court upon an accusatory pleading for a violation of Section 11350, 11357, 11364, 11365, 11377, or 11550 of the Health and Safety Code, or Section 11358 of the Health and Safety Code if the marijuana planted, cultivated, harvested, dried, or processed is for personal use, or Section 11368 of the Health and Safety Code if the narcotic drug was secured by a fictitious prescription and is for the personal use of the defendant and was not sold or furnished to another, or Section 11370.1 of the Health and Safety Code if the amount possessed is one-half gram or less of a substance containing cocaine base, one gram or less of a substance containing cocaine, one gram or less of a substance containing heroin, one gram or less of a substance containing methamphetamine, one-eighth gram or less of a crystalline substance containing phencyclidine, one milliliter or less of a liquid substance containing phencyclidine, one-half gram or less of plant material containing phencyclidine, or one hand-rolled

cigarette treated with phencyclidine, or subdivision (d) of Section 653f if the solicitation was for acts directed to personal use only, or Section 381 or subdivision (f) of Section 647 of the Penal Code, if for being under the influence of a controlled substance, or Section 4230 of the Business and Professions Code, and it appears to the district attorney that, except as provided in subdivision (b) of Section 11357 of the Health and Safety Code, all of the following apply to the defendant:

(1) The defendant has no conviction for any offense involving controlled substances prior to the alleged commission of the charged divertible offense.

(2) The offense charged did not involve a crime of violence or threatened violence.

(3) There is no evidence of a violation relating to narcotics or restricted dangerous drugs other than a violation of the sections listed in this subdivision.

(4) The defendant's record does not indicate that probation or parole has ever been revoked without thereafter being completed.

(5) The defendant's record does not indicate that he or she has been diverted pursuant to this chapter within five years prior to the alleged commission of the charged divertible offense.

(6) The defendant has no prior felony conviction within five years prior to the alleged commission of the charged divertible offense.

(b) The district attorney shall review his or her file to determine whether or not paragraphs (1) to (6), inclusive, of subdivision (a) are applicable to the defendant. Upon the agreement of the district attorney, law enforcement, the public defender, the presiding judge of the criminal division of the municipal court or a judge designated by the presiding judge, and the probation department of each county, this procedure shall be completed as soon as possible after the initial filing of the charges. If the defendant is found eligible, the district attorney shall file with the court a declaration in writing or state for the record the grounds upon which the determination is based, and shall make this information available to the defendant and his or her attorney. This procedure is intended to allow the court to set the diversion hearing at the arraignment. If the defendant is found ineligible, the district attorney shall file with the court a declaration in writing or state for the record the grounds upon which the determination is based, and shall make this information available to the defendant and his or her attorney. Nothing in this subdivision shall be construed to affect the obligation of a probation department to conduct an investigation and make a report to the court, pursuant to subdivision (b) of Section 1000.1 and Section 1000.2.

(c) Successful completion of diversion for a violation of Section 11368 of the Health and Safety Code shall not prohibit any administrative agency from taking disciplinary action against a licensee or from denying a license. Nothing in this subdivision shall be construed to expand or restrict the provisions of Section 1000.5.

SEC. 3. No reimbursement is required by this act pursuant to

Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 470

An act to amend Sections 11515 and 11540 of the Vehicle Code, relating to vehicles.

[Approved by Governor October 1, 1991 Filed with Secretary of State October 2, 1991.]

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

SECTION 1. Section 11515 of the Vehicle Code is amended to read:

11515. (a) Whenever an insurance company makes a total loss settlement on a total loss salvage vehicle, the insurance company, an occupational licensee of the department authorized by the insurance company, or a salvage pool authorized by the insurance company, shall, within 10 days from the settlement of the loss, forward the properly endorsed certificate of ownership or other evidence of ownership acceptable to the department, the license plates, and a three dollar ($3) fee, to the department. An occupational licensee of the department may submit a certificate of license plate destruction in lieu of the actual license plate. The department, upon receipt of the certificate of ownership or other evidence of title, the license plates, and the three dollar ($3) fee, shall issue a salvage certificate for the vehicle.

(b) Whenever the owner of a total loss salvage vehicle retains possession of the vehicle, the insurance company shall notify the department of the retention on a form prescribed by the department. The insurance company shall also notify the insured or owner of the insured's or owner's responsibility to comply with this subdivision. The owner shall, within 10 days from the settlement of the loss, forward the properly endorsed certificate of ownership or other evidence of ownership acceptable to the department, the license plates, and a three dollar ($3) fee to the department. The department, upon receipt of the certificate of ownership or other evidence of title, the license plates, and the three dollar ($3) fee, shall issue a salvage certificate for the vehicle.

(c) Whenever a total loss salvage vehicle is not the subject of an

insurance settlement, the owner shall, within 10 days from the loss, forward the properly endorsed certificate of ownership or other evidence of ownership acceptable to the department, the license plates, and a three dollar ($3) fee to the department.

(d) Whenever a total loss salvage vehicle is not the subject of an insurance settlement, a self-insurer, as defined in Section 16052, shall, within 10 days of the loss, forward the properly endorsed certificate of ownership or other evidence of ownership acceptable to the department, the license plates, and a three dollar ($3) fee to the department.

(e) Prior to sale or disposal of a total loss salvage vehicle, the owner, owner's agent, or salvage pool, shall obtain a properly endorsed salvage certificate and deliver it to the purchaser within 10 days after payment in full for the salvage vehicle and shall also comply with Section 5900. The department shall accept the endorsed salvage certificate in lieu of the certificate of ownership or other evidence of ownership when accompanied by an application and other documents and fees, including, but not limited to, the fees required by Section 9265, as may be required by the department.

(f) This section does not apply to a vehicle which has been driven or taken without the consent of the owner thereof, until the vehicle has been recovered by the owner and only if the vehicle is a total loss salvage vehicle.

(g) A violation of subdivision (a), (b), (d), or (e) is a misdemeanor, pursuant to Section 40000.11. Notwithstanding Section 40000.11, a violation of subdivision (c) is an infraction, except that, if committed with intent to defraud, a violation of subdivision (c) is a misdemeanor.

SEC. 2. Section 11540 of the Vehicle Code is amended to read:

11540. (a) A salvage pool shall maintain an accurate record of every vehicle it acquires and every vehicle it disposes of, and shall notify the department of the disposition of any vehicle pursuant to Section 5900.

(b) Whenever a salvage pool acquires a total loss salvage vehicle or recovered stolen vehicle and the license plates on the vehicle have not been removed pursuant to subdivision (a) of Section 11515 or any other provision of law, the salvage pool shall, prior to disposing of that vehicle, remove and submit the license plates to the department. The salvage pool shall maintain an accurate record of every license plate it acquires and disposes of, which records shall be maintained for two years and be open for inspection by any peace officer during the regular business hours of that salvage pool.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction. Notwithstanding Section 17580 of the Government Code, unless

otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

SEC. 4. This act shall become operative on July 1, 1992.

CHAPTER 471

An act to add Section 27100.1 to the Government Code, relating to deposits in county treasuries, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 1, 1991 Filed with Secretary of State October 2, 1991]

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

SECTION 1. Section 27100.1 is added to the Government Code, to read:

27100.1. Notwithstanding any other provision of law, when any public entity or any public official acting in a fiduciary capacity, who is required or authorized by law to deposit funds in the county treasury, makes a deposit, those funds shall be deemed to be held in trust by the county treasurer on behalf of the depositing entity or public official. The funds shall not be deemed funds or assets of the county and the relationship of the depositing entity or public official and the county shall not be one of creditor-debtor.

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

The status of funds which a county treasurer holds in trust in the county treasury is not clear should the county file for bankruptcy. A federal bankruptcy court might regard these funds as the property of a county. In order to specify clearly as soon as possible that the relationship of the depositing entity or public official and the county shall not be one of creditor-debtor, it is necessary that this act go into immediate effect.

CHAPTER 472

An act to amend Sections 17034, 17037, 17039, 17052.13, 17052.14, 17053.6, 17053.8, 17053.9, 17053.11, 17054, 17054.5, 17054.7, 17073.5, 17207, 17733, 19062, 19062.11, 20506, 23058, 23060, 23612, 23612.5, 23622, 23623, 23624, 24347.5, 24359.1, 24363, 24377, 24434, 25555, and 25954.3 of, to amend and renumber Section 25940 of, and to repeal Sections 17251, 17641, and 24372 of, the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor October 2, 1991. Filed with Secretary of State October 2, 1991]

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

SECTION 1. Section 17034 of the Revenue and Taxation Code is amended to read:

17034. Unless otherwise specifically provided therein, the provisions of any act:

(a) Which affect the imposition or computation of taxes, additions to tax other than Section 18682, penalties, or the allowance of credits against the tax, shall be applied to taxable years beginning on or after January 1 of the year in which the act takes effect.

(b) Which change the provisions of Section 18682 (relating to underpayment of estimated tax) shall be applied to taxable years beginning on or after January 1 of the year immediately after the year in which the act takes effect.

(c) Which otherwise affect the provisions of this part shall be applied on and after the date the act takes effect.

SEC. 2. Section 17037 of the Revenue and Taxation Code is amended to read:

17037. Provisions in other codes or general law statutes which are related to this part include all of the following:

(a) Chapter 20.6 (commencing with Section 9891) of Division 3 of the Business and Professions Code, relating to tax preparers.

(b) Part 10.5 (commencing with Section 20501) of this division, relating to the Property Tax Assistance and Postponement Law.

(c) Part 10.7 (commencing with Section 21001) of this division, relating to the Taxpayers' Bill of Rights.

(d) Part 11 (commencing with Section 23001) of this division, relating to the Bank and Corporation Tax Law.

(e) Government Code Sections 15700 to 15702.1, inclusive, relating to the Franchise Tax Board.

SEC. 3. Section 17039 of the Revenue and Taxation Code is amended to read:

17039. (a) Notwithstanding any provision in this part to the contrary, for the purposes of computing tax credits, the term "net tax" means the tax imposed under either Section 17041 or 17048 plus the tax imposed under Section 17504 (relating to lump-sum

distributions) less the credits allowed by Section 17054 (relating to personal exemption credits) and any amount imposed under paragraph (1) of subdivision (d) and paragraph (1) of subdivision (e) of Section 17560. Notwithstanding the preceding sentence, the "net tax" shall not be less than the tax imposed under Section 17504 (relating to the separate tax on lump-sum distributions), if any. Credits shall be allowed against "net tax" in the following order:

(1) Credits which do not contain carryover or refundable provisions, except those described in paragraphs (4), (5), and (6), and the credit allowed by Section 17053.14 (relating to the credit for political contributions).

(2) Credits which contain carryover provisions but do not contain refundable provisions.

(3) Credits which contain both carryover and refundable provisions.

(4) The minimum tax credit allowed by Section 17063 (relating to the alternative minimum tax).

(5) Credits for taxes paid to other states allowed by Chapter 12 (commencing with Section 18001).

(6) The low-income tax credit allowed by Section 17069.

(7) Credits which contain refundable provisions but do not contain carryover provisions.

The order within each paragraph shall be determined by the Franchise Tax Board.

(b) Notwithstanding the provisions of Sections 17053.5 (relating to the renter's credit), 17061 (relating to refunds pursuant to the Unemployment Insurance Code), and 18551.1 (relating to tax withholding), the credits provided in those sections shall be allowed in the order provided in paragraph (7) of subdivision (a).

(c) (1) Notwithstanding any other provision of this part, no tax credit shall reduce the tax imposed under Section 17041 or 17048 plus the tax imposed under Section 17504 (relating to the separate tax on lump-sum distributions) below the tentative minimum tax. as defined by Section 17062, except the following credits, but only after allowance of the credit allowed by Section 17063—

(A) The credit allowed by former Section 17052.4 (relating to solar energy).

(B) The credit allowed by former Section 17052.5 (relating to solar energy).

(C) The credit allowed by Section 17052.5 (relating to solar energy).

(D) The credit allowed by Section 17052.12 (relating to research expenses).

(E) The credit allowed by Section 17053.5 (relating to the renter's credit).

(F) The credit allowed by Section 17057 (relating to clinical testing expenses).

(G) The credit allowed by Section 17058 (relating to low-income housing).

(H) The credit allowed by Section 17061 (relating to refunds pursuant to the Unemployment Insurance Code).

(I) Credits for taxes paid to other states allowed by Chapter 12 (commencing with Section 18001).

(J) The credit allowed by Section 18551.1 (relating to tax withholding).

(2) Any credit which is partially or totally denied under paragraph (1) shall be allowed to be carried over and applied to the net tax in succeeding taxable years, if the provisions relating to that credit include a provision to allow a carryover when that credit exceeds the net tax.

(d) Unless otherwise provided, any remaining carryover of a credit allowed by a section which has been repealed or made inoperative shall continue to be allowed to be carried over and applied against the "net tax" until the credit has been exhausted.

(e) (1) Unless otherwise provided, if two or more taxpayers (other than husband and wife) share in costs that would be eligible for a tax credit allowed under this part, each taxpayer shall be eligible to receive the tax credit in proportion to his or her respective share of the costs paid or incurred.

(2) In the case of a partnership, the credit may be divided among the partners pursuant to a written partnership agreement in accordance with Section 704 of the Internal Revenue Code, relating to partner's distributive share.

(3) In the case of a husband and wife who file separate returns, the credit may be taken by either or equally divided between them.

SEC. 4. Section 17052.13 of the Revenue and Taxation Code is amended to read:

17052.13. (a) There shall be allowed as a credit against the "net tax" (as defined in Section 17039) for the taxable year the amount equal to the sales or use tax paid or incurred by the taxpayer in connection with the purchase of qualified property.

(b) For purposes of this section:

(1) "Taxpayer" means either of the following:

(A) A qualified business as defined in Section 7082 of the Government Code.

(B) A person or entity engaged in a trade or business within an enterprise zone designated pursuant to Section 7073 of the Government Code.

(2) "Qualified property" means machinery and machinery parts used for fabricating, processing, assembling, and manufacturing, and machinery and machinery parts used for the production of renewable energy resources or air or water pollution control mechanisms, up to a value of one million dollars ($1,000,000), which, in the case of a taxpayer described in subparagraph (A) of paragraph (1), is used exclusively in a program area, and, in the case of a taxpayer described in subparagraph (B) of paragraph (1), is used exclusively in an enterprise zone.

(c) If the taxpayer has purchased property upon which a use tax

has been paid or incurred, the credit provided under subdivision (a) shall be allowed only if qualified property of a comparable quality and price is not timely available for purchase in this state.

(d) In the case where the credit allowed under this section exceeds the "net tax" for the taxable year, that portion of the credit which exceeds the "net tax" may be carried over to the "net tax" in succeeding taxable years, until the credit is used. The credit shall be applied first to the earliest years possible.

(e) Any taxpayer who elects to be subject to this section shall not be entitled to increase the basis of the property as otherwise required by Section 164(a) of the Internal Revenue Code with respect to sales or use tax paid or incurred in connection with the purchase of qualified property.

(f) In the case of a taxpayer described in subparagraph (A) of paragraph (1) of subdivision (b), the amount of the credit allowed by this section in any taxable year shall not exceed the amount of tax which would be imposed on the income attributed to business activities of the taxpayer within the program area (as defined in Section 7082 of the Government Code) as if that attributed income represented all of the income of the taxpayer subject to tax under this part. The amount of that attributed income shall be determined in accordance with the provisions of Article 2 (commencing with Section 25120) of Chapter 17 of Part 11, modified for purposes of this section as follows:

(1) For taxable years beginning on or after January 1, 1991, and ending on or before December 31, 1996, income shall be apportioned to the program area by multiplying total income from the business by a fraction, the numerator of which is the property factor plus the payroll factor, and the denominator of which is two.

(2) "The program area" shall be substituted for "this state."

(g) In the case of a taxpayer described in subparagraph (B) of paragraph (1) of subdivision (b), the amount of the credit allowed by this section in any taxable year shall not exceed the amount of tax which would be imposed on the income attributed to business activities of the taxpayer within an enterprise zone (designated pursuant to Section 7073 of the Government Code) as if that attributed income represented all of the income of the taxpayer subject to tax under this part. The amount of that attributed income shall be determined in accordance with the provisions of Article 2 (commencing with Section 25120) of Chapter 17 of Part 11, modified for purposes of this section as follows:

(1) For taxable years beginning on or after January 1, 1991, and ending on or before December 31, 1996, income shall be apportioned to the enterprise zone by multiplying total income from the business by a fraction, the numerator of which is the property factor plus the payroll factor, and the denominator of which is two.

(2) "The enterprise zone" shall be substituted for "this state."

SEC. 5. Section 17052.14 of the Revenue and Taxation Code is amended to read:

17052.14. (a) (1) For taxable years beginning on or after January 1, 1989, and before January 1, 1994, there shall be allowed as a credit against the "net tax" (as defined in Section 17039), an amount equal to 40 percent of the cost of qualified property purchased and placed in service on or after January 1, 1989, and before January 1, 1994. The amount of the allowable credit shall be claimed as provided in subdivision (c).

(2) Notwithstanding the total cost of the qualified property, the amount of cost which may be taken into account for purposes of claiming the credit allowed under this section and Section 23612.5 shall not exceed six hundred twenty-five thousand dollars ($625,000) per facility during the five-year credit period.

(3) The basis of any qualified property, as defined in paragraph (1) of subdivision (d), for which a credit is allowed shall be reduced by the amount of the credit. The basis adjustment shall be made for the taxable year for which the credit is allowed.

(b) The credit shall only be allowed by this section if:

(1) The total adjusted basis of all qualified property owned on the last day of the taxable year exceeds the largest total adjusted basis of all qualified property owned at any one time during the base year.

(2) The total capacity of qualified property to use recycled materials on the last day of the taxable year exceeds the largest total capacity of qualified property at any one time during the base year. If a qualified property owned in the base year is replaced by qualified property of larger capacity, the eligible costs shall be proportional to the increase in capacity.

(c) The amount of the allowable credit shall be claimed as follows:

(1) Twenty percent of the cost, as limited by paragraph (2) of subdivision (a), shall be allowed for the taxable year the qualified property is placed in service.

(2) Fifteen percent of the cost, as limited by paragraph (2) of subdivision (a), shall be allowed for the taxable year immediately succeeding the taxable year the qualified property is placed in service.

(3) Five percent of the cost, as limited by paragraph (2) of subdivision (a), shall be allowed for the taxable year immediately succeeding the taxable year specified in paragraph (2).

(d) (1) "Qualified property" means machinery or equipment located within California, which has not previously been certified and is used by the taxpayer exclusively to manufacture finished products composed of at least 50 percent secondary waste material with at least 10 percent of which is composed of postconsumer waste generated from within California. "Qualified property" may include manufacturing equipment which utilizes 100 percent secondary waste, including at least 80 percent postconsumer waste where all of that material is contained within a finished product regardless of the finished product's percent postconsumer content. "Qualified property" includes, but is not limited to, deinking equipment utilized in the production of fine quality paper and equipment

utilized to reclaim plastic which is used either as a raw material by a manufacturer or is sold to a manufacturer for use in the manufacture or fabrication of finished products.

(2) "Postconsumer waste" is only those products generated within California by a business or consumer which have served their intended end uses and would normally be disposed of as solid waste, having completed their life cycle as a consumer item.

(3) "Secondary waste" means fragments of products or finished products of a manufacturing process generated within California, which has converted a virgin resource into a commodity of real economic value, and includes postconsumer waste, but does not include mill broke, wood slabs, chips, sawdust, or other wood residue from a manufacturing process.

(4) "Finished product" means a marketable product or component thereof that has an economic value to a consumer and is ready to be used without the requirement of further alteration of its form.

(5) "Base year" is the taxable year immediately preceding the taxable year for which the credit allowed by this section is claimed.

(e) The California Integrated Waste Management Board shall do all of the following:

(1) Certify that the qualified property is purchased and used by the taxpayer as specified in paragraphs (1), (2), (3), (4), and (5) of subdivision (d).

(2) Provide an annual listing to the Franchise Tax Board, (preferably on magnetic tape or other machine-readable form, and in a form and manner agreed upon by the Franchise Tax Board and the California Integrated Waste Management Board), of the qualified taxpayers who were issued the certification.

(3) Provide the taxpayer with a copy of the certification to retain for his or her records.

(f) The taxpayer shall do all of the following:

(1) Provide the California Integrated Waste Management Board with documents, as deemed necessary by the California Integrated Waste Management Board, verifying the purchase of the qualified property and that the machinery or equipment meets the recycling requirements specified in this section.

(2) Retain for his or her records a copy of the certificate issued by the California Integrated Waste Management Board specified in paragraph (1) of subdivision (e).

(g) In the case where the credit allowed by this section exceeds the "net tax," for any taxable year for which a credit is allowed by subdivision (c), the excess may be carried over to reduce the "net tax," in the following year, and succeeding years if necessary, until the credit is exhausted.

(h) If a taxpayer disposes of or no longer uses the qualified property as defined in subdivision (d), then any amount that would have been otherwise allowed as a credit for the taxable year of disposition or nonuse shall not be allowed.

(i) With the exception of a husband and wife, if two or more taxpayers share in the expenses eligible for the credit provided by this section, each taxpayer shall be eligible to receive the tax credit in proportion to his or her respective share of the expenses paid or incurred. In the case of a partnership, the tax credit may be divided between the partners pursuant to a written partnership agreement in accordance with Chapter 10 (commencing with Section 17851), which includes Section 704 of the Internal Revenue Code concerning substantial economic effect, relating to a partner's distributive share. In the case of a husband and wife who file separate returns, the credit may be taken by either or equally divided between them.

(j) The California Integrated Waste Management Board shall, no later than March 1, 1994, submit a report to the Legislature evaluating the impact of the tax expenditure in this section. The report shall include information about the number of taxpayers claiming the credit, the total dollar amount of credit allocated, and the equipment for which the credit was used. The report shall also determine to what extent, if any, the tax expenditure authorized by this section increased recycling activities in California. The California Integrated Waste Management Board shall work cooperatively with the Franchise Tax Board to determine the relevant tax return data necessary to complete the report and the time the data is required. The Franchise Tax Board shall be responsible for providing the data to the California Integrated Waste Management Board.

(k) This section shall remain in effect only until December 1, 1994, and as of that date is repealed, unless a later enacted statute, which is chaptered before December 1, 1994, deletes or extends that date. However, any unused credit may continue to be carried forward, as provided in subdivision (g), until the credit has been exhausted.

SEC. 6. Section 17053.6 of the Revenue and Taxation Code is amended to read:

17053.6. (a) There shall be allowed as a credit against the "net tax" (as defined by Section 17039) an amount equal to 10 percent of the amount of wages paid or incurred during the taxable year to each prisoner who is employed in a joint venture program established pursuant to Article 1.5 of Chapter 5 of Title 1 of Part 3 of the Penal Code, through agreement with the Director of Corrections.

(b) The Department of Corrections shall forward annually to the Franchise Tax Board a list of all employers certified by the Department of Corrections as active participants in a joint venture program pursuant to Article 1.5 (commencing with Section 2717.1) of Chapter 5 of Title 1 of Part 3 of the Penal Code. The list shall include the certified participant's federal employer identification number.

SEC. 7. Section 17053.8 of the Revenue and Taxation Code is amended to read:

17053.8. (a) There shall be allowed as credit against the "net tax" (as defined in Section 17039) for the taxable year an amount equal

to the sum of each of the following:

(1) Fifty percent for qualified wages in the first year of employment.

(2) Forty percent for qualified wages in the second year of employment.

(3) Thirty percent for qualified wages in the third year of employment.

(4) Twenty percent for qualified wages in the fourth year of employment.

(5) Ten percent for qualified wages in the fifth year of employment.

(b) For purposes of this section:

(1) "Qualified wages" means the wages paid or incurred by the employer during the taxable year to qualified disadvantaged individuals. "Qualified wages" means that portion of hourly wages which does not exceed 150 percent of the minimum wage.

(2) "Qualified years one through five wages" means, with respect to any individual, qualified wages received during the 60-month period beginning with the day the individual commences employment within an enterprise zone.

(3) "Minimum wage" means the wage established by the Industrial Welfare Commission as provided for in Chapter 1 (commencing with Section 1171) of Part 4 of Division 2 of the Labor Code.

(c) For purposes of this section:

(1) "Qualified disadvantaged individual" means an individual—

(A) Who is a qualified employee within the meaning of subdivision (d).

(B) Who is hired by the employer after the designation of the area in which services were performed as an enterprise zone (under Section 7073 of the Government Code).

(C) Who is any of the following:

(i) An individual who has been determined eligible for services under the federal Job Training Partnership Act (29 U.S.C. Sec. 1501 et seq.) and who is receiving subsidized employment, training, or services funded by the federal Job Training Partnership Act, except for an individual who only receives outreach, intake, or assessment services or a combination thereof.

(ii) Any voluntary or mandatory registrant under the Greater Avenues for Independence Act of 1985 provided for pursuant to Article 3.2 (commencing with Section 11320) of Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions Code.

(iii) Any individual who has been certified eligible by the California Employment Development Department under the federal Targeted Jobs Tax Credit Program as long as that program is in effect.

(d) For purposes of this section: "qualified employee" means an individual—

(1) At least 90 percent of whose services for the taxpayer during

the taxable year are directly related to the conduct of the taxpayer's trade or business located in an enterprise zone, and

(2) Who performs at least 50 percent of his or her services for the taxpayer during the taxable year in an enterprise zone.

(e) (1) For purposes of this section:

(A) All employees of trades or businesses (which are not incorporated) which are under common control shall be treated as employed by a single employer, and

(B) The credit (if any) allowable by this section with respect to each trade or business shall be determined by reference to its proportionate share of the qualified wages giving rise to the credit.

The regulations prescribed under this paragraph shall be based on principles similar to the principles which apply in the case of controlled groups of corporations as specified in subdivision (e) of Section 23622.

(2) If an employer acquires the major portion of a trade or business of another employer (hereinafter in this paragraph referred to as the "predecessor") or the major portion of a separate unit of a trade or business of a predecessor, then, for purposes of applying this section (other than subdivision (f)) for any calendar year ending after that acquisition, the employment relationship between an employee and an employer shall not be treated as terminated if the employee continues to be employed in that trade or business.

(f) (1) If the employment of any employee, with respect to whom qualified wages are taken into account under subdivision (a) is terminated by the taxpayer at any time during the first 270 days of that employment (whether or not consecutive) or before the close of the 270th calendar day after the day in which that employee completes 90 days of employment with the taxpayer, the tax imposed by this part for the taxable year in which that employment is terminated shall be increased by an amount (determined under those regulations) equal to the credit allowed under subdivision (a) for that taxable year and all prior taxable years attributable to qualified wages paid or incurred with respect to that employee.

(2) (A) Paragraph (1) shall not apply to any of the following:

(i) A termination of employment of an employee who voluntarily leaves the employment of the taxpayer.

(ii) A termination of employment of an individual who, before the close of the period referred to in paragraph (1), becomes disabled to perform the services of that employment, unless that disability is removed before the close of that period and the taxpayer fails to offer reemployment to that individual.

(iii) A termination of employment of an individual, if it is determined under the applicable employment compensation provisions that the termination was due to the misconduct of that individual.

(iv) A termination of employment of an individual due to a substantial reduction in the trade or business operations of the taxpayer.

(v) A termination of employment of an individual, if that individual is replaced by other qualified employees so as to create a net increase in both the number of employees and the hours of employment.

(B) For purposes of paragraph (1), the employment relationship between the taxpayer and an employee shall not be treated as terminated by reason of a mere change in the form of conducting the trade or business of the taxpayer, if the employee continues to be employed in that trade or business and the taxpayer retains a substantial interest in that trade or business.

(3) Any increase in tax under paragraph (1) shall not be treated as tax imposed by this part for purposes of determining the amount of any credit allowable under this part.

(g) In the case of an estate or trust—

(1) The qualified wages for any taxable year shall be apportioned between the estate or trust and the beneficiaries on the basis of the income of the estate or trust allocable to each, and

(2) Any beneficiary to whom any qualified wages have been apportioned under paragraph (1) shall be treated (for purposes of this part) as the employer with respect to those wages.

(h) For purposes of this section, "enterprise zone" means an area for which designation as an enterprise zone is in effect under Section 7073 of the Government Code.

(i) The credit shall be reduced by the credit allowed under Section 17053.7. The credit shall also be reduced by the federal credit allowed under Section 51 of the Internal Revenue Code.

In addition, any deduction otherwise allowed under this part for the wages or salaries paid or incurred by the taxpayer upon which the credit is based shall be reduced by the amount of the credit.

(j) In the case where the credit allowed under this section exceeds the net tax for the taxable year, that portion of the credit which exceeds the net tax may be carried over to the net tax in succeeding taxable years for the number of taxable years in which the designation of an enterprise zone under Section 7073 of the Government Code is operative, or 15 taxable years, if longer, until the credit is used. The credit shall be applied first to the earliest taxable years possible.

(k) The amount of the credit allowed by this section in any taxable year shall not exceed the amount of tax which would be imposed on the income attributed to business activities of the taxpayer within the enterprise zone (as defined in Section 7073 of the Government Code) as if that attributed income represented all of the income of the taxpayer subject to tax under this part. The amount of that attributed income shall be determined in accordance with the provisions of Article 2 (commencing with Section 25120) of Chapter 17 of Part 11, modified for purposes of this section as follows:

(1) For taxable years beginning on or after January 1, 1991, and ending on or before December 31, 1996, income shall be apportioned to the enterprise zone by multiplying total income from the business

by a fraction, the numerator of which is the property factor plus the payroll factor, and the denominator of which is two.

(2) "The enterprise zone" shall be substituted for "this state."

SEC. 8. Section 17053.9 of the Revenue and Taxation Code is amended to read:

17053.9. (a) In the case of a qualified employee, there shall be allowed as a credit against the "net tax" (as defined by Section 17039) for the taxable year an amount equal to 5 percent of the qualified wages for the taxable year.

(b) For purposes of this section:

(1) "Qualified employee" means an individual—

(A) Who is described in subdivision (d) of Section 17053.8.

(B) Who is not an employee of the federal government or of this state or of any political subdivision of this state.

(2) (A) "Qualified wages" has the meaning given to the term "wages" under subsection (b) of Section 3306 of the Internal Revenue Code, attributable to services performed for an employer with respect to whom the employee is a qualified employee, in an amount which does not exceed one and one-half times the dollar limitation specified in that subsection.

(B) "Qualified wages" does not include any compensation received from the federal government or this state or any political subdivision of this state.

(3) "Enterprise zone" means any area with respect to which a designation as an enterprise zone is in effect under Section 7073 of the Government Code.

(c) For each dollar of income received by the taxpayer in excess of qualified wages, as defined in this section, the credit shall be reduced by nine cents ($0.09).

(d) The amount of the credit allowed by this section in any taxable year shall not exceed the amount of tax which would be imposed on the income of the employee attributable to employment within the enterprise zone as if that income represented all of the income of the taxpayer subject to tax under this part.

SEC. 9. Section 17053.11 of the Revenue and Taxation Code is amended to read:

17053.11. (a) There shall be allowed as a credit against the "net tax" (as defined in Section 17039) for the taxable year the amount determined in subdivisions (c) and (d) for a qualified business which hires a qualified employee.

(b) For purposes of this section:

(1) "Qualified business" means either (A) a qualified business, as defined in Section 7082 of the Government Code, or (B) a qualified business, as defined in Section 7082 of the Government Code, except that the percentage requirements with respect to employment of residents of a high-density unemployment area shall be applicable only to those employees hired within the 12 months immediately preceding the date that the business seeks certification from the Department of Commerce and not to the entire workforce of the

business. A business that qualifies under clause (B) shall be a qualified business only for the purposes of this section, provided that the Department of Commerce certifies that the business meets the standards set forth in this paragraph.

(2) "Qualified employee" means an employee who has been an unemployed resident of a high-density unemployment area (as defined in Section 7082 of the Government Code) prior to being employed by the qualified business. For the purposes of this section, participation by a prospective employee in a state or federally funded job training or work demonstration program shall not constitute employment, or effect the eligibility of an otherwise qualified employee. Qualified employee includes an otherwise qualified employee who is employed by a qualified business in the 90 days prior to its certification by the Department of Commerce as a qualified business for the purpose of becoming eligible for that certification.

(c) The credit provided for each qualified employee who has been unemployed for at least six months prior to being employed pursuant to subdivision (a), shall be an amount equal to the sum of each of the following:

(1) Fifty percent for qualified wages in the first year of employment.

(2) Forty percent for qualified wages in the second year of employment.

(3) Thirty percent for qualified wages in the third year of employment.

(4) Twenty percent for qualified wages in the fourth year of employment.

(5) Ten percent for qualified wages in the fifth year of employment.

(d) The credit provided for each qualified employee who has been unemployed for at least three months but less than six months prior to being employed shall be 25 percent of qualified wages for the first year of employment; however, the credit for the second year of employment shall be that provided in paragraph (2) of subdivision (c), the credit for the third year of employment shall be that provided in paragraph (3) of subdivision (c), the credit for the fourth year of employment shall be that provided in paragraph (4) of subdivision (c), and the credit for the fifth year of employment shall be that provided in paragraph (5) of subdivision (c).

(e) For purposes of this section, "qualified wages" means that portion of wages not in excess of 150 percent of the minimum hourly wage paid or incurred by the qualified business during the taxable year to the qualified employee.

(f) (1) If the employment of any employee with respect to whom qualified wages are taken into account under subdivision (c) or (d) is terminated by the taxpayer at any time during the first 270 days of that employment (whether or not consecutive) or before the close of the 270th calendar day after the day in which that employee

completes 90 days of employment with the taxpayer, the tax imposed by this part for the taxable year in which that employment is terminated shall be increased by an amount equal to the credit allowed under subdivision (a) for that taxable year and all prior taxable years attributable to qualified wages paid or incurred with respect to that employee.

(2) Paragraph (1) shall not apply to any of the following:

(A) A termination of employment of an employee who voluntarily leaves the employment of the taxpayer.

(B) A termination of employment of an individual who, before the close of the period referred to in paragraph (1), becomes disabled to perform the services of that employment, unless that disability is removed before the close of that period and the taxpayer fails to offer reemployment to that individual.

(C) A termination of employment of an individual, if it is determined under the applicable unemployment compensation provisions that the termination was due to the misconduct of that individual.

(D) A termination of employment of an individual due to a substantial reduction in the trade or business operations of the taxpayer other than regularly occurring seasonal reductions.

(E) A termination of employment of an individual, if that individual is replaced by other qualified employees so as to create a net increase in both number of employees and hours of employment.

(F) For purposes of paragraph (1), the employment relationship between the taxpayer and an employee shall not be treated as terminated by reason of a mere change in the form of conducting the trade or business of the taxpayer, if the employee continues to be employed in that trade or business and the taxpayer retained a substantial interest in that trade or business.

(3) Any increase in tax under paragraph (1) shall not be treated as tax imposed by this part for purposes of determining the amount of any credit allowable under this part.

(g) In the case of an estate or trust—

(1) The qualified wages for any taxable year shall be apportioned between the estate or trust and the beneficiaries on the basis of the income of the estate or trust allocable to each, and

(2) Any beneficiary to whom any qualified wages have been apportioned under paragraph (1) shall be treated (for purposes of this part) as the employer with respect to those wages.

(h) The credit shall be reduced by the credit allowed under Section 17053.7. The credit shall also be reduced by the federal credit allowed under Section 51 of the Internal Revenue Code.

In addition, any deduction otherwise allowed under this part for the wages or salaries paid or incurred by the taxpayer upon which the credit is based shall be reduced by the amount of the credit.

(i) In the case where the credit allowed under this section exceeds the "net tax" for the taxable year, that portion of the credit which exceeds the "net tax" may be carried over to the "net tax" in

succeeding taxable years until the credit is used. The credit shall be applied first to the earliest taxable years possible.

(j) The amount of the credit allowed by this section for any taxable year shall not exceed the amount of tax which would be imposed on the income attributed to business activities of the taxpayer within the program area (as defined in Section 7082 of the Government Code) as if that attributed income represented all of the income of the taxpayer subject to tax under this part. The amount of that attributed income shall be determined in accordance with the provisions of Article 2 (commencing with Section 25120) of Chapter 17 of Part 11, modified for purposes of this section as follows:

(1) For taxable years beginning on or after January 1, 1991, and ending on or before December 31, 1996, income shall be apportioned to the program area by multiplying total income from the business by a fraction, the numerator of which is the property factor plus the payroll factor, and the denominator of which is two.

(2) "The program area" shall be substituted for "this state."

SEC. 10. Section 17054 of the Revenue and Taxation Code is amended to read:

17054. In the case of individuals, the following credits for personal exemption may be deducted from the tax imposed under Section 17041 or 17048, less any increases imposed under paragraph (1) of subdivision (d) or paragraph (1) of subdivision (e), or both, of Section 17560.

(a) In the case of a single individual, a head of household, or a married individual making a separate return, a credit of fifty-one dollars ($51) for taxable years beginning on or after January 1, 1987, and before January 1, 1988, and fifty-two dollars ($52) for taxable years beginning on or after January 1, 1988.

(b) In the case of a surviving spouse (as defined in Section 17046), or a husband and wife making a joint return, a credit of one hundred two dollars ($102) for taxable years beginning on or after January 1, 1987, and before January 1, 1988, and one hundred four dollars ($104) for taxable years beginning on or after January 1, 1988. If one spouse was a resident for the entire taxable year and the other spouse was a nonresident for all or any portion of the taxable year, the personal exemption shall be divided equally.

(c) In addition to any other credit provided in this section, in the case of an individual who is 65 years of age or over by the end of the taxable year a credit of fifty-one dollars ($51) for taxable years beginning on or after January 1, 1987, and before January 1, 1988, and fifty-two dollars ($52) for taxable years beginning on or after January 1, 1988.

(d) Except as provided in paragraph (2), a credit of fifty-one dollars ($51) for taxable years beginning on or after January 1, 1987, and before January 1, 1988, and fifty-two dollars ($52) for taxable years beginning on or after January 1, 1988, for each dependent (as defined in Section 17056)—

(1) For whom an exemption is allowable under Section 151 (c) of

the Internal Revenue Code (relating to additional exemption for dependents).

(2) No credit for a dependent shall be allowed to a noncustodial parent if both of the following apply:

(A) A credit for the dependent would not be allowed except for the provisions of Section 152(e)(2) or 152(e)(4) of the Internal Revenue Code, relating to exemptions claimed by noncustodial parents.

(B) The custodial parent files a return as head of household for the same taxable year.

(e) A credit for personal exemption of fifty-one dollars ($51) for taxable years beginning on or after January 1, 1987, and before January 1, 1988, and fifty-two dollars ($52) for taxable years beginning on or after January 1, 1988, for the taxpayer if he or she is blind at the end of his or her taxable year.

(f) A credit for personal exemption of fifty-one dollars ($51) for taxable years beginning on or after January 1, 1987, and before January 1, 1988, and fifty-two dollars ($52) for taxable years beginning on or after January 1, 1988, for the spouse of the taxpayer if a separate return is made by the taxpayer, and if the spouse is blind and, for the calendar year in which the taxable year of the taxpayer begins, has no gross income and is not the dependent of another taxpayer.

(g) For the purposes of this section, an individual is blind only if either: his or her central visual acuity does not exceed 20/200 in the better eye with correcting lenses, or his or her visual acuity is greater than 20/200 but is accompanied by a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees.

(h) In the case of an individual with respect to whom a credit under this section is allowable to another taxpayer for a taxable year beginning in the calendar year in which the individual's taxable year begins, the credit amount applicable to that individual for that individual's taxable year shall be zero.

(i) For each taxable year beginning on or after January 1, 1989, the Franchise Tax Board shall compute the credits prescribed in this section. That computation shall be made as follows:

(1) The California Department of Industrial Relations shall transmit annually to the Franchise Tax Board the percentage change in the California Consumer Price Index as modified for rental equivalent homeownership for all items from June of the prior calendar year to June of the current calendar year, no later than August 1 of the current calendar year.

(2) The Franchise Tax Board shall add 100 percent to the percentage change figure which is furnished to them pursuant to paragraph (1), and divide the result by 100.

(3) The Franchise Tax Board shall multiply the immediately preceding taxable year credits by the inflation adjustment factor determined in paragraph (2), and round off the resulting products

to the nearest one dollar ($1).

(4) In computing the credits pursuant to this subdivision, the credit provided in subdivision (b) shall be twice the credit provided in subdivision (a).

(j) The amendments made to this section by the act adding this subdivision shall be applied only in the computation of taxes for taxable years beginning on or after January 1, 1990.

SEC. 11. Section 17054.5 of the Revenue and Taxation Code is amended to read:

17054.5. (a) (1) There shall be allowed as a credit against the "net tax" (as defined in Section 17039) of a qualified individual an amount equal to 30 percent of the net tax.

(2) For taxable years beginning on or after January 1, 1987, and before January 1, 1988, a qualified individual means a qualified joint custody head of household as defined in subdivision (c).

(3) For taxable years beginning on or after January 1, 1988, a qualified individual means either of the following:

(A) A "qualified joint custody head of household" as defined in subdivision (c).

(B) A "qualified taxpayer" as defined in subdivision (e).

(4) The amount of the credit under this section shall not exceed two hundred dollars ($200) for any taxable year.

(b) For each taxable year beginning on or after January 1, 1988, the Franchise Tax Board shall recompute the maximum credit prescribed in subdivision (a). That computation shall be made as follows:

(1) The California Department of Industrial Relations shall transmit annually to the Franchise Tax Board the percentage change in the California Consumer Price Index as modified for rental equivalent homeownership for all items from June of the prior calendar year to June of the current calendar year, no later than August 1 of the current calendar year.

(2) The Franchise Tax Board shall add 100 percent to the percentage change figure which is furnished to them pursuant to paragraph (1) and divide the result by 100.

(3) The Franchise Tax Board shall multiply the immediately preceding taxable year credit by the inflation adjustment factor determined in paragraph (2), and round off the resulting product to the nearest one dollar ($1).

(c) "Qualified joint custody head of household" means an individual who meets all of the following:

(1) Is not married at the close of the taxable year, or files a separate return and does not have his or her spouse as a member of his or her household during the entire taxable year.

(2) Maintains as his or her home a household which constitutes for the taxable year the principal place of abode for a qualifying child, as defined in subdivision (d), for no less than 146 days of the taxable year but no more than 219 days of the taxable year, under a decree of dissolution or separate maintenance, or under a written

agreement between the parents prior to the issuance of a decree of dissolution or separate maintenance where the proceedings have been initiated.

(3) Furnishes over one-half the cost of maintaining the household during the taxable year.

(4) Does not qualify as a head of household under Section 17042 or as a surviving spouse under Section 17046.

(d) For purposes of this section, a "qualifying child" means a son, stepson, daughter, or stepdaughter of the taxpayer or a descendant of a son or daughter of the taxpayer, but if that son, stepson, daughter, stepdaughter, or descendant is married at the close of the taxpayer's taxable year, only if the taxpayer is entitled to a credit for the taxable year for that person under Section 17054.

(e) "Qualified taxpayer" means an individual who meets all of the following:

(1) Is married and files a separate return.

(2) During the last six months of the taxable year the taxpayer's spouse was not a member of the taxpayer's household.

(3) Maintains a household, whether or not the taxpayer's home, which constitutes the principal place of abode of a dependent mother or father of the taxpayer for the taxable year.

(4) Furnishes over one-half of the cost of maintaining the household during the taxable year.

SEC. 12. Section 17054.7 of the Revenue and Taxation Code is amended to read:

17054.7. (a) There shall be allowed as a credit against the "net tax" (as defined in Section 17039) for a "qualified senior head of household" (as defined in subdivision (c)) an amount equal to 2 percent of the taxable income. The amount of the credit under this section shall not exceed seven hundred fifty dollars ($750) for any taxable year.

(b) For each taxable year beginning on or after January 1, 1991, the Franchise Tax Board shall recompute the maximum credit prescribed in subdivision (a) and the adjusted gross income specified in paragraph (3) of subdivision (c). Those computations shall be made as follows:

(1) The California Department of Industrial Relations shall transmit annually to the Franchise Tax Board the percentage change in the California Consumer Price Index as modified for rental equivalent home ownership for all items from June of the prior calendar year to June of the current calendar year, no later than August 1 of the current calendar year.

(2) The Franchise Tax Board shall add 100 percent to the percentage change figure which is furnished pursuant to paragraph (1) and divide the result by 100.

(3) The Franchise Tax Board shall multiply the amounts for the immediately preceding taxable year for the maximum credit specified in subdivision (a) and the adjusted gross income limitation specified in paragraph (3) of subdivision (c) by the inflation

adjustment factor determined in paragraph (2), and round off the resulting product to the nearest one dollar ($1).

(c) "Qualified senior head of household" means an individual who meets all of the following:

(1) Attained the age of 65 before the close of the taxable year.

(2) Qualified as the head of household in accordance with Section 17042 for either of the two taxable years immediately preceding the taxable year by providing a household for a qualifying individual who died during either of the two taxable years immediately preceding the taxable year.

(3) Whose adjusted gross income for the taxable year does not exceed thirty-seven thousand five hundred dollars ($37,500).

SEC. 13. Section 17073.5 of the Revenue and Taxation Code is amended to read:

17073.5. (a) A taxpayer may elect to take a standard deduction as follows:

(1) In the case of a taxpayer, other than a head of a household or a surviving spouse (as defined in Section 17046) or a married couple filing a joint return, the standard deduction shall be one thousand eight hundred eighty dollars ($1,880).

(2) In the case of a head of household or a surviving spouse (as defined in Section 17046) or a married couple filing a joint return, the standard deduction shall be three thousand seven hundred sixty dollars ($3,760).

(b) The standard deduction provided for in subdivision (a) shall be in lieu of all deductions other than those which are to be subtracted from gross income in computing adjusted gross income under Section 17072.

(c) (1) The provisions of this section shall be applied in lieu of the provisions of Sections 63(c), 63(f), and 63(h) of the Internal Revenue Code, relating to standard deductions.

(2) Notwithstanding paragraph (1), Section 63(c)(5) of the Internal Revenue Code, relating to limitations on the standard deduction of certain dependents, and Section 63(c)(6) of the Internal Revenue Code, relating to certain individuals not eligible for the standard deduction, shall apply. For purposes of this paragraph, the amount specified in Section 63(c)(5)(A) of the Internal Revenue Code shall be adjusted for inflation in accordance with the provisions of Section 63(c)(4) of the Internal Revenue Code.

(d) For each taxable year beginning on or after January 1, 1988, the Franchise Tax Board shall recompute the standard deduction amounts prescribed in subdivision (a). That computation shall be made as follows:

(1) The California Department of Industrial Relations shall transmit annually to the Franchise Tax Board the percentage change in the California Consumer Price Index for all items from June of the prior calendar year to June of the current calendar year, no later than August 1 of the current calendar year.

(2) The Franchise Tax Board shall compute an inflation adjustment factor by adding 100 percent to that portion of the percentage change figure which is furnished pursuant to paragraph (1) and dividing the result by 100.

(3) The Franchise Tax Board shall multiply the standard deduction amounts in the preceding taxable year by the inflation adjustment factor determined in paragraph (2), and round off the resulting products to the nearest one dollar ($1).

(4) In computing the standard deduction amounts pursuant to this subdivision, the amount provided in paragraph (2) of subdivision (a) shall be twice the amount provided in paragraph (1) of subdivision (a).

SEC. 14. Section 17207 of the Revenue and Taxation Code, as amended by Chapter 15 of the Statutes of 1991, is amended to read:

17207. (a) For disaster losses resulting from (1) forest fire or any other related casualty occurring in 1985 in California, (2) from storm, flooding, or any other related casualty occurring in 1986 in California, (3) any loss sustained during 1987 as a result of a forest fire or any other related casualty, (4) from earthquake, aftershock, or any other related casualty occurring in 1987 in California, (5) from earthquake, aftershock, or any other related casualty occurring in 1989 in California, or (6) any loss sustained during 1990 as a result of fire or any other related casualty in California, which qualify for treatment under Section 165(i) of the Internal Revenue Code, to the extent that those losses, as computed pursuant to Section 165(a) of the Internal Revenue Code, exceed the adjusted taxable income of the year of loss or, if the election under Section 165(i) of the Internal Revenue Code is made, the adjusted taxable income of the year preceding the loss, then that "excess loss", at the election of the taxpayer, may be carried to other taxable years as provided in subdivision (b).

(b) For losses covered by Sections 165(c)(1) and 165(c)(2) of the Internal Revenue Code, relating to trade or business losses, losses resulting from transactions entered into for profit, and for losses covered by Section 165(c)(3) of the Internal Revenue Code, relating to personal casualty losses, the "excess loss" may be carried forward to each of the five taxable years following the year the loss is claimed. However, if there is any "excess loss" remaining after the five-year period, then 50 percent of that "excess loss" may be carried forward to each of the next 10 taxable years.

(c) The entire amount of any "excess loss" as defined in subdivision (a) shall be carried to the earliest of the taxable years to which, by reason of subdivision (b), the loss may be carried. The portion of the loss which shall be carried to each of the other taxable years shall be the excess, if any, of the amount of "excess loss" over the sum of the adjusted taxable income for each of the prior taxable years to which that "excess loss" may be carried.

(d) The provisions of this section and Section 165(i) of the Internal Revenue Code shall be applicable to any of the following

losses sustained in any county or city in this state which was proclaimed by the Governor to be in a state of disaster:

(1) Any loss sustained during February 1986 as a result of storm, flooding, or any other related casualty.

(2) Any loss sustained during 1987 as a result of forest fire or any other related casualty.

(3) Any loss sustained during October 1987 as the result of earthquake, aftershock, or any other related casualty.

(4) Any loss resulting from the earthquake which occurred in October 1989, aftershock, or any other related casualty.

(5) Any loss sustained during 1990 as the result of fire in the County of Santa Barbara.

(e) Losses described in this section may not be taken into account in computing a net operating loss deduction under Section 17201, as modified by Sections 17276, 17276.1, and 17276.2.

(f) For purposes of this section, "adjusted taxable income" shall be defined by Section 1212(b)(2)(B) of the Internal Revenue Code.

SEC. 15. Section 17251 of the Revenue and Taxation Code is repealed.

SEC. 16. Section 17641 of the Revenue and Taxation Code is repealed.

SEC. 17. Section 17733 of the Revenue and Taxation Code is amended to read:

17733. (a) An estate shall be allowed a credit of ten dollars ($10) against the tax imposed under Section 17041, less any amounts imposed under paragraph (1) of subdivision (d) or paragraph (1) of subdivision (e), or both, of Section 17560.

(b) A trust shall be allowed a credit of one dollar ($1) against the tax imposed under Section 17041, less any amounts imposed under paragraph (1) of subdivision (d) or paragraph (1) of subdivision (e), or both, of Section 17560.

(c) The credits allowed by this section shall be in lieu of the credits allowed under Section 17054 (relating to credit for personal exemption).

SEC. 18. Section 19062 of the Revenue and Taxation Code is amended to read:

19062. Interest shall be allowed and paid on any overpayment in respect of any tax, at the adjusted annual rate established pursuant to Section 19269 as follows:

(a) In the case of a credit, from the date of the overpayment to the due date of the amount for which the credit is allowed. Any interest allowed on any credit shall first be credited on any taxes due from the taxpayer under this part.

(b) In the case of a refund, including a refund in excess of tax liability as prescribed in subdivision (i) of Section 17053.5, from the date of the overpayment to a date preceding the date of the refund warrant by not more than 30 days, the date to be determined by the Franchise Tax Board.

SEC. 19. Section 19062.11 of the Revenue and Taxation Code is

amended to read:

19062.11. (a) Except as provided in subdivisions (b), (c), and (d), if any overpayment of tax imposed by this part is refunded or credited within 90 days after the return is filed, or within 90 days after the last day prescribed for filing the return of tax (determined without regard to any extension of time for filing the return), whichever is later, no interest shall be allowed under Section 19062 on the overpayment.

For the purposes of this section, "overpayment of tax" includes a refund in excess of tax liability as prescribed in subdivision (i) of Section 17053.5.

(b) In the case of returns which set forth no determination or amount of tax liability, or credits other than that allowed under Section 17053.5, and which are filed solely for the purpose of claiming the renter credit, no interest shall be allowed on refunds made within 90 days from the date on which the return is filed, or within 90 days after the last day prescribed for filing the return, whichever is later. This subdivision applies only when communication with the claimant or other verification is necessary to determine entitlement to the claimed credit.

(c) For the 1982 taxable year and each taxable year thereafter, the 90-day time periods specified in subdivision (a) shall be 45 days.

(d) In the case of a return of tax which is filed after the last date prescribed for filing the return (determined with regard to extensions), no interest shall be allowed or paid for any day before the date on which the return is filed.

SEC. 20. Section 20506 of the Revenue and Taxation Code is amended to read:

20506. In the case of an owner-claimant, "household" includes the claimant and all other persons, except bona fide renters, minors, or students (as defined by Section 151(c)(4) of the Internal Revenue Code), whose principal place of residence is the residential dwelling of the claimant. In the case of a renter-claimant, "household" includes the claimant, his or her spouse, and all other persons who reside on the premises, except renters, minors, or students (as defined by Section 151(c)(4) of the Internal Revenue Code), and owners of the same principal place of residence.

SEC. 21. Section 23058 of the Revenue and Taxation Code is amended to read:

23058. Unless otherwise specifically provided therein, the provisions of any act:

(a) Which affect the imposition or computation of taxes, additions to tax other than Sections 25951 to 25954.5, inclusive, penalties, or the allowance of credits against the tax, shall be applied to income years beginning on or after January 1 of the year in which the act takes effect.

(b) Which change the provisions of Sections 25561 to 25563, inclusive, (relating to payment of estimated tax) or Sections 25951 to 25954.5, inclusive, (relating to underpayment of estimated tax) shall

be applied to income years beginning on or after January 1 of the year immediately following the year in which the act takes effect.

(c) Which otherwise affect the provisions of this part shall be applied on and after the date the act takes effect.

SEC. 22. Section 23060 of the Revenue and Taxation Code is amended to read:

23060. Provisions in other codes or General Law Statutes which are related to this part include all of the following:

(a) Chapter 20.6 (commencing with Section 9891) of Division 3 of the Business and Professions Code, relating to tax preparers.

(b) Sections 1502, and 2204 to 2206, inclusive, of the Corporations Code, relating to the corporation officer statement penalty.

(c) Section 2104 of the Corporations Code, that prevents the application of any provision of this part against any foreign lending institution whose activities in this state are limited to those described in Section 191(d) of the Corporations Code.

(d) Sections 15700 to 15702.1, inclusive, of the Government Code, relating to the Franchise Tax Board.

(e) Part 10 (commencing with Section 17001), relating to the Personal Income Tax Law.

(f) Part 10.7 (commencing with Section 21001), relating to the Taxpayers' Bill of Rights.

(g) Part 18 (commencing with Section 38001), relating to the Multistate Tax Compact.

SEC. 23. Section 23612 of the Revenue and Taxation Code is amended to read:

23612. (a) There shall be allowed as a credit against the "tax" (as defined by Section 23036) an amount equal to the sales or use tax paid or incurred by the taxpayer in connection with the purchase of qualified property.

(b) For purposes of this section:

(1) "Taxpayer" means either of the following:

(A) A qualified business as defined in Section 7082 of the Government Code.

(B) A bank or corporation engaged in a trade or business within an enterprise zone designated pursuant to Section 7073 of the Government Code.

(2) "Qualified property" means machinery and machinery parts used for fabricating, processing, assembling, and manufacturing and machinery and machinery parts used for the production of renewable energy resources or air or water pollution control mechanisms, up to a value of twenty million dollars ($20,000,000), which, in the case of a taxpayer described in subparagraph (A) of paragraph (1), is used exclusively in a program area, and, in the case of a taxpayer described in subparagraph (B) of paragraph (1), is used exclusively in an enterprise zone.

(c) If the taxpayer has purchased property upon which a use tax has been paid or incurred, the credit provided under subdivision (a) shall be allowed only if qualified property of a comparable quality

and price is not timely available for purchase in this state.

(d) In the case where the credit allowed under this section exceeds the "tax," the excess may be carried over to reduce the "tax" in the following year, and succeeding years if necessary, until the credit has been exhausted.

(e) Any taxpayer who elects to be subject to this section shall not be entitled to increase the basis of the property as otherwise required by Section 164(a) of the Internal Revenue Code with respect to sales or use tax paid or incurred in connection with the purchase of qualified property.

(f) In the case of a taxpayer described in subparagraph (A) of paragraph (1) of subdivision (b), the amount of the credit allowed by this section shall not in any year exceed the amount of tax which would be imposed on the income attributed to business activities of the taxpayer within the program area (as defined in Section 7082 of the Government Code). The amount of that attributed income shall be determined in accordance with the provisions of Article 2 (commencing with Section 25120) of Chapter 17, modified for purposes of this section as follows:

(1) For income years beginning on or after January 1, 1991, and ending on or before December 31, 1996, income shall be apportioned to the program area by multiplying total income from the business by a fraction, the numerator of which is the property factor plus the payroll factor, and the denominator of which is two.

(2) "The program area" shall be substituted for "this state."

(g) In the case of a taxpayer described in subparagraph (B) of paragraph (1) of subdivision (b), the amount of the credit allowed by this section in any year shall not exceed the amount of tax which would be imposed on the income attributed to business activities of the taxpayer within the enterprise zone (designated pursuant to Section 7073 of the Government Code). The amount of that attributed income shall be determined in accordance with the provisions of Article 2 (commencing with Section 25120) of Chapter 17, modified for purposes of this section as follows:

(1) For income years beginning on or after January 1, 1991, and ending on or before December 31, 1996, income shall be apportioned to the enterprise zone by multiplying total income from the business by a fraction, the numerator of which is the property factor plus the payroll factor, and the denominator of which is two.

(2) "The enterprise zone" shall be substituted for "this state."

SEC. 24. Section 23612.5 of the Revenue and Taxation Code is amended to read:

23612.5. (a) (1) For income years beginning on or after January 1, 1989, and before January 1, 1994, there shall be allowed as a credit against the "tax" (as defined in Section 23036), an amount equal to 40 percent of the cost of qualified property purchased and placed in service on or after January 1, 1989, and before January 1, 1994. The amount of the allowable credit shall be claimed as provided in subdivision (c).

(2) Notwithstanding the total cost of the qualified property, the amount of cost which may be taken into account for purposes of claiming the credit allowed under this section and Section 17052.14 shall not exceed six hundred twenty-five thousand dollars ($625,000) per facility during the five-year credit period.

(3) The basis of any qualified property, as defined in paragraph (1) of subdivision (d), for which a credit is allowed shall be reduced by the amount of the credit. The basis adjustment shall be made for the income year for which the credit is allowed.

(b) The credit shall only be allowed by this section if:

(1) The total adjusted basis of all qualified property owned on the last day of the income year exceeds the largest total adjusted basis of all qualified property owned at any one time during the base year.

(2) The total capacity of qualified property to use recycled materials on the last day of the income year exceeds the largest total capacity of qualified property any one time during the base year. If a qualified property owned in the base year is replaced by qualified property of larger capacity, the eligible costs shall be proportional to the increase in capacity.

(c) The amount of the allowable credit shall be claimed as follows:

(1) Twenty percent of the cost, as limited by paragraph (2) of subdivision (a), shall be allowed for the income year the qualified property is placed in service.

(2) Fifteen percent of the cost, as limited by paragraph (2) of subdivision (a), shall be allowed for the income year immediately succeeding the income year the qualified property is placed in service.

(3) Five percent of the cost, as limited by paragraph (2) of subdivision (a), shall be allowed for the income year immediately succeeding the income year specified in paragraph (2).

(d) (1) "Qualified property" means machinery or equipment located within California, which has not previously been certified and is used by the taxpayer exclusively to manufacture finished products composed of at least 50 percent secondary waste material with at least 10 percent of which is composed of postconsumer waste generated from within California. "Qualified property" may include manufacturing equipment which utilizes 100 percent secondary waste, including at least 80 percent postconsumer waste where all of that material is contained within a finished product regardless of the finished product's percent postconsumer content. "Qualified property" includes, but is not limited to, deinking equipment utilized in the production of fine quality paper and equipment utilized to reclaim plastic which is used either as a raw material by a manufacturer or is sold to a manufacturer for use in the manufacture or fabrication of finished products.

(2) "Postconsumer waste" is only those products generated within California by a business or consumer which have served their intended end uses and would normally be disposed of as solid waste, having completed their life cycle as a consumer item.

(3) "Secondary waste" means fragments of products or finished products of a manufacturing process generated within California, which has converted a virgin resource into a commodity of real economic value, and includes postconsumer waste, but does not include mill broke, wood slabs, chips, sawdust, or other wood residue from a manufacturing process.

(4) "Finished product" means a marketable product or component thereof that has an economic value to a consumer and is ready to be used without the requirement of further alteration of its form.

(5) "Base year" is the income year immediately preceding the income year for which the credit allowed by this section is claimed.

(e) The California Integrated Waste Management Board shall do all of the following:

(1) Certify that the qualified property is purchased and used by the taxpayer as specified in paragraphs (1), (2), (3), (4), and (5) of subdivision (d).

(2) Provide an annual listing to the Franchise Tax Board, (preferably on magnetic tape or other machine-readable form, and in a form and manner agreed upon by the Franchise Tax Board and the California Integrated Waste Management Board), of the qualified taxpayers who were issued the certification.

(3) Provide the taxpayer with a copy of the certification to retain for its records.

(f) The taxpayer shall do all of the following:

(1) Provide the California Integrated Waste Management Board with documents, as deemed necessary by the California Integrated Waste Management Board, verifying the purchase of the qualified property and that the machinery or equipment meets the recycling requirements specified in this section.

(2) Retain for its records a copy of the certificate issued by the California Integrated Waste Management Board specified in paragraph (1) of subdivision (e).

(g) In the case where the credit allowed by this section exceeds the "tax," for any income year for which a credit is allowed by subdivision (c), the excess may be carried over to reduce that "tax," in the following year, and succeeding years if necessary, until the credit is used.

(h) If a taxpayer disposes of or no longer uses the qualified property as defined in subdivision (d), then any amount that would have been otherwise allowed as a credit for the income year of disposition or nonuse shall not be allowed.

(i) If two or more taxpayers share in the expenses eligible for the credit provided by this section, each taxpayer shall be eligible to receive the tax credit in proportion to its respective share of the expenses paid or incurred. In the case of a partnership, the tax credit may be divided between the partners pursuant to a written partnership agreement in accordance with Chapter 10 (commencing with Section 17851), which includes Section 704 of the

Internal Revenue Code concerning substantial economic effect, relating to a partner's distributive share.

(j) The California Integrated Waste Management Board shall, no later than March 1, 1994, submit a report to the Legislature evaluating the impact of the tax expenditure in this section. The report shall include information about the number of taxpayers claiming the credit, the total dollar amount of credit allocated, and the equipment for which the credit was used. The report shall also determine to what extent, if any, the tax expenditure authorized by this section increased recycling activities in California. The California Integrated Waste Management Board shall work cooperatively with the Franchise Tax Board to determine the relevant tax return data necessary to complete the report and the time the data is required. The Franchise Tax Board shall be responsible for providing the data to the California Integrated Waste Management Board.

(k) This section shall remain in effect only until December 1, 1994, and as of that date is repealed, unless a later enacted statute, which is chaptered before December 1, 1994, deletes or extends that date. However, any unused credit may continue to be carried forward, as provided in subdivision (g), until the credit has been exhausted.

SEC. 25. Section 23622 of the Revenue and Taxation Code is amended to read:

23622. (a) There shall be allowed as a credit against the "tax" (as defined by Section 23036) an amount equal to the sum of each of the following:

(1) Fifty percent for qualified wages in the first year of employment.

(2) Forty percent for qualified wages in the second year of employment.

(3) Thirty percent for qualified wages in the third year of employment.

(4) Twenty percent for qualified wages in the fourth year of employment.

(5) Ten percent for qualified wages in the fifth year of employment.

(b) For purposes of this section:

(1) "Qualified wages" means the wages paid or incurred by the employer during the income year to qualified disadvantaged individuals. "Qualified wages" means that portion of hourly wages which does not exceed 150 percent of the minimum wage.

(2) "Qualified years one through five wages" means, with respect to any individual, qualified wages received during the 60-month period beginning with the day the individual commences employment within an enterprise zone.

(3) "Minimum wage" means the wage established by the Industrial Welfare Commission as provided for in Chapter 1 (commencing with Section 1171) of Part 4 of Division 2 of the Labor Code.

(c) For purposes of this section:

(1) "Qualified disadvantaged individual" means an individual—

(A) Who is a qualified employee within the meaning of subdivision (d).

(B) Who is hired by the employer after the designation of the area in which services were performed as an enterprise zone (under Section 7073 of the Government Code).

(C) Who is any of the following:

(i) An individual who has been determined eligible for services under the federal Job Training Partnership Act (29 U.S.C. Sec. 1501 et seq.) and who is receiving subsidized employment, training, or services funded by the federal Job Training Partnership Act, except for an individual who only receives outreach, intake, or assessment services or a combination thereof.

(ii) Any voluntary or mandatory registrant under the Greater Avenues for Independence Act of 1985 provided for pursuant to Article 3.2 (commencing with Section 11320) of Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions Code.

(iii) Any individual who has been certified eligible by the California Employment Development Department under the federal Targeted Jobs Tax Credit Program as long as that program is in effect.

(d) For purposes of this section, "qualified employee" means an individual—

(1) At least 90 percent of whose services for the taxpayer during the income year are directly related to the conduct of the taxpayer's trade or business located in an enterprise zone.

(2) Who performs at least 50 percent of his or her services for the taxpayer during the income year in an enterprise zone.

(e) (1) For purposes of this section, all employees of all corporations which are members of the same controlled group of corporations shall be treated as employed by a single employer. In any such case, the credit (if any) allowable by this section to each member shall be determined by reference to its proportionate share of the qualified wages giving rise to the credit. For purposes of this subdivision, "controlled group of corporations" has the meaning given to that term by Section 1563(a) of the Internal Revenue Code, except that—

(A) "More than 50 percent" shall be substituted for "at least 80 percent" each place it appears in Section 1563(a)(1) of the Internal Revenue Code.

(B) The determination shall be made without regard to subsections (a)(4) and (e)(3)(C) of Section 1563 of the Internal Revenue Code.

(2) If an employer acquires the major portion of a trade or business of another employer (hereinafter in this paragraph referred to as the "predecessor") or the major portion of a separate unit of a trade or business of a predecessor, then, for purposes of applying this section (other than subdivision (f)) for any calendar year ending

after that acquisition, the employment relationship between an employee and an employer shall not be treated as terminated if the employee continues to be employed in that trade or business.

(f) (1) If the employment of any employee with respect to whom qualified wages are taken into account under subdivision (a) is terminated by the taxpayer at any time during the first 270 days of that employment (whether or not consecutive) or before the close of the 270th calendar day after the day in which that employee completes 90 days of employment with the taxpayer, the tax imposed by this part for the income year in which that employment is terminated shall be increased by an amount equal to the credit allowed under subdivision (a) for that income year and all prior income years attributable to qualified wages paid or incurred with respect to that employee.

(2) (A) Paragraph (1) shall not apply to any of the following:

(i) A termination of employment of an employee who voluntarily leaves the employment of the taxpayer.

(ii) A termination of employment of an individual who, before the close of the period referred to in paragraph (1), becomes disabled to perform the services of that employment, unless that disability is removed before the close of that period and the taxpayer fails to offer reemployment to that individual.

(iii) A termination of employment of an individual, if it is determined under the applicable unemployment compensation provisions that the termination was due to the misconduct of that individual.

(iv) A termination of employment of an individual due to a substantial reduction in the trade or business operations of the taxpayer.

(v) A termination of employment of an individual, if that individual is replaced by other qualified employees so as to create a net increase in both the number of employees and the hours of employment.

(B) For purposes of paragraph (1), the employment relationship between the taxpayer and an employee shall not be treated as terminated—

(i) By a transaction to which Section 381(a) of the Internal Revenue Code applies, if the employee continues to be employed by the acquiring corporation, or

(ii) By reason of a mere change in the form of conducting the trade or business of the taxpayer, if the employee continues to be employed in that trade or business and the taxpayer retains a substantial interest in that trade or business.

(3) Any increase in tax under paragraph (1) shall not be treated as tax imposed by this part for purposes of determining the amount of any credit allowable under this part.

(g) In the case of—

(1) An organization to which Section 593 of the Internal Revenue Code applies, and

(2) A regulated investment company or a real estate investment trust subject to taxation under this part

rules similar to the rules provided in subsections (e) and (h) of Section 46 of the Internal Revenue Code shall apply.

(h) For purposes of this section, "enterprise zone" means an area for which designation as an enterprise zone is in effect under Section 7073 of the Government Code.

(i) The credit shall be reduced by the credit allowed under Section 23621. The credit shall also be reduced by the federal credit allowed under Section 51 of the Internal Revenue Code.

In addition, any deduction otherwise allowed under this part for the wages or salaries paid or incurred by the taxpayer upon which the credit is based shall be reduced by the amount of the credit.

(j) In the case where the credit allowed under this section exceeds the "tax," the excess may be carried over to reduce the "tax" in the following year, and succeeding years if necessary, for the number of years in which the designation of an enterprise zone under Section 7073 of the Government Code is operative, or 15 income years, if longer, until the credit has been exhausted.

(k) The amount of the credit allowed by this section shall not in any year exceed the amount of tax which would be imposed on the income attributed to business activities of the taxpayer within the enterprise zone (as defined in Section 7073 of the Government Code). The amount of that attributed income shall be determined in accordance with the provisions of Article 2 (commencing with Section 25120) of Chapter 17, modified for purposes of this section as follows:

(1) For income years beginning on or after January 1, 1991, and ending on or before December 31, 1996, income shall be apportioned to the enterprise zone by multiplying total income from the business by a fraction, the numerator of which is the property factor plus the payroll factor, and the denominator of which is two.

(2) "The enterprise zone" shall be substituted for "this state."

SEC. 26. Section 23623 of the Revenue and Taxation Code is amended to read:

23623. (a) There shall be allowed as a credit against the "tax" (as defined by Section 23036) the amount determined in subdivisions (c) and (d) for a qualified business which hires a qualified employee.

(b) For purposes of this section:

(1) "Qualified business" means either (A) a qualified business, as defined in Section 7082 of the Government Code, or (B) a qualified business, as defined in Section 7082 of the Government Code, except that the percentage requirements with respect to employment of residents of a high-density unemployment area shall be applicable only to those employees hired within the 12 months immediately preceding the date that the business seeks certification from the Department of Commerce and not to the entire workforce of the business. A business that qualifies under clause (B) shall be a qualified business only for the purposes of this section, provided that

the Department of Commerce certifies that the business meets the standards set forth in this paragraph.

(2) "Qualified employee" means an employee who has been an unemployed resident of a high-density unemployment area (as defined in Section 7082 of the Government Code) prior to being employed by the qualified business. For the purposes of this section, participation by a prospective employee in a state or federally funded job training or work demonstration program shall not constitute employment, or effect the eligibility of an otherwise qualified employee. Qualified employee includes an otherwise qualified employee who is employed by a qualified business in the 90 days prior to its certification by the Department of Commerce as a qualified business for the purpose of becoming eligible for that certification.

(c) The credit provided for each qualified employee who has been unemployed for at least six months prior to being employed pursuant to subdivision (a) shall be an amount equal to the sum of each of the following:

(1) Fifty percent for qualified wages in the first year of employment.

(2) Forty percent for qualified wages in the second year of employment.

(3) Thirty percent for qualified wages in the third year of employment.

(4) Twenty percent for qualified wages in the fourth year of employment.

(5) Ten percent for qualified wages in the fifth year of employment.

(d) The credit provided for each qualified employee who has been unemployed for at least three months but less than six months prior to being employed shall be 25 percent of qualified wages for the first year of employment; however, the credit for the second year of employment shall be that provided in paragraph (2) of subdivision (c), the credit for the third year of employment shall be that provided in paragraph (3) of subdivision (c), the credit for the fourth year of employment shall be that provided in paragraph (4) of subdivision (c), and the credit for the fifth year of employment shall be that provided in paragraph (5) of subdivision (c).

(e) For purposes of this section, "qualified wages" means that portion of wages not in excess of 150 percent of the minimum hourly wage paid or incurred by the qualified business during the income year to the qualified employee.

(f) (1) If the employment of any employee with respect to whom qualified wages are taken into account under subdivision (c) or (d) is terminated by the taxpayer at any time during the first 270 days of that employment (whether or not consecutive) or before the close of the 270th calendar day after the day in which that employee completes 90 days of employment with the taxpayer, the tax imposed by this part for the income year in which that employment is

terminated shall be increased by an amount equal to the credit allowed under subdivision (a) for that income year and all prior income years attributable to qualified wages paid or incurred with respect to that employee.

(2) Paragraph (1) shall not apply to any of the following:

(A) A termination of employment of an employee who voluntarily leaves the employment of the taxpayer.

(B) A termination of employment of an individual who, before the close of the period referred to in paragraph (1), becomes disabled to perform the services of that employment, unless that disability is removed before the close of that period and the taxpayer fails to offer reemployment to that individual.

(C) A termination of employment of an individual, if it is determined under the applicable unemployment compensation provisions that the termination was due to the misconduct of that individual.

(D) A termination of employment of an individual due to a substantial reduction in the trade or business operations of the taxpayer other than regularly occurring seasonal reductions.

(E) A termination of employment of an individual, if that individual is replaced by other qualified employees so as to create a net increase in both number of employees and hours of employment.

(F) For purposes of paragraph (1), the employment relationship between the taxpayer and an employee shall not be treated as terminated by reason of a mere change in the form of conducting the trade or business of the taxpayer, if the employee continues to be employed in that trade or business and the taxpayer retained a substantial interest in that trade or business.

(3) Any increase in tax under paragraph (1) shall not be treated as tax imposed by this part for purposes of determining the amount of any credit allowable under this part.

(g) The credit shall be reduced by the credit allowed under Section 23621. The credit shall also be reduced by the federal credit allowed under Section 51 of the Internal Revenue Code.

In addition, any deduction otherwise allowed under this part for wages or salaries paid or incurred by the taxpayer upon which the credit is based shall be reduced by the amount of the credit.

(h) In the case where the credit allowed under this section exceeds the "tax," the excess may be carried over to reduce the "tax" in the following year, and succeeding years if necessary, until the credit has been exhausted.

(i) The amount of the credit allowed by this section for any year shall not exceed the amount of tax which would be imposed on the income attributed to business activities of the taxpayer within the program area (as defined in Section 7082 of the Government Code) as if that attributed income represented all of the income of the taxpayer subject to tax under this part. The amount of that attributed income shall be determined in accordance with the provisions of Article 2 (commencing with Section 25120) of Chapter 17, modified

for purposes of this section as follows:

(1) For income years beginning on or after January 1, 1991, and ending on or before December 31, 1996, income shall be apportioned to the program area by multiplying total income from the business by a fraction, the numerator of which is the property factor plus the payroll factor, and the denominator of which is two.

(2) "The program area" shall be substituted for "this state."

SEC. 27. Section 23624 of the Revenue and Taxation Code is amended to read:

23624. (a) There shall be allowed as a credit against the "tax" (as defined by Section 23036) an amount equal to 10 percent of the amount of wages paid or incurred during the income year to each prisoner who is employed in a joint venture program established pursuant to Article 1.5 of Chapter 5 of Title 1 of Part 3 of the Penal Code, through agreement with the Director of Corrections.

(b) The Department of Corrections shall forward annually to the Franchise Tax Board a list of all employers certified by the Department of Corrections as active participants in a joint venture program pursuant to Article 1.5 (commencing with Section 2717.1) of Chapter 5 of Title 1 of Part 3 of the Penal Code. The list shall include the certified participant's federal employer identification number.

SEC. 28. Section 24347.5 of the Revenue and Taxation Code, as amended by Chapter 15 of the Statutes of 1991, is amended to read:

24347.5. (a) In lieu of Section 24347, for disaster losses resulting (1) from forest fire or any other related casualty occurring in 1985 in California, (2) from storm, flooding, or any other related casualty occurring in 1986 in California, (3) any loss sustained during 1987 as a result of a forest fire or any other related casualty, (4) from earthquake, aftershock, any other related casualty occurring in October 1987, in California, (5) from earthquake, aftershock, or any related casualty occurring in October 1989, in California, or (6) any loss sustained during 1990 as a result of fire or any other related casualty in California, a deduction is allowed pursuant to Section 165(i) of the Internal Revenue Code.

(b) To the extent that losses under subdivision (a) exceed the net income of the year of loss or, if the election under Section 165(i) of the Internal Revenue Code is made, the net income of the year preceding the loss, then that "excess loss," at the election of the taxpayer, may be carried forward to each of the five income years following the income year the loss is claimed. However, if there is any "excess loss" remaining after the five-year period, then 50 percent of that "excess loss" may be carried forward to each of the next 10 income years.

(c) The entire amount of any "excess loss" as defined in subdivision (b) shall be carried to the earliest of the income years to which, by reason of subdivision (b), the loss may be carried. The portion of the loss which shall be carried to each of the other income years shall be the excess, if any, of the amount of "excess loss" over

the sum of the net income for each of the prior income years to which that "excess loss" may be carried.

(d) The provisions of this section and Section 165(i) of the Internal Revenue Code shall be applicable to any of the following losses sustained in any county or city in this state which was proclaimed by the Governor to be in a state of disaster:

(1) Any loss sustained during February 1986, as a result of storm, flooding, or any other related casualty.

(2) Any loss sustained during 1987 as a result of forest fire or any other related casualty.

(3) Any loss sustained during October 1987, as the result of earthquake, aftershock, or any other related casualty.

(4) Any loss resulting from the earthquake which occurred in October 1989, aftershock, or any other related casualty.

(5) Any loss sustained during 1990 as the result of fire in the County of Santa Barbara.

(e) Any corporation subject to the provisions of Section 25101 or 25101.15 that has disaster losses pursuant to this section, shall determine the "excess loss" to be carried to other income years under the principles specified in Section 25108 relating to net operating losses.

(f) Losses described in this section may not be taken into account in computing a net operating loss deduction under Section 24416 or 24416.1.

SEC. 29. Section 24359.1 of the Revenue and Taxation Code is amended to read:

24359.1. Notwithstanding any other provision of law, any credit or deduction allowed by Section 23606 or 24357.8 shall not be disallowed on the basis that the contribution is made for the primary or incidental purpose of benefiting the donor in any of the following ways:

(a) Encouraging institutions to interest and train students to use a computer, scientific equipment, or apparatus, thereby enlarging the future potential market by developing prospective purchases.

(b) Developing and maintaining a favorable public image.

SEC. 30. Section 24363 of the Revenue and Taxation Code is amended to read:

24363. For purposes of Sections 24360 to 24363.5, inclusive, the term "bond" means any bond, debenture, note, or certificate or other evidence of indebtedness, but does not include any such obligation which constitutes stock in trade of the taxpayer or any such obligation of a kind which would properly be included in the inventory of the taxpayer if on hand at the close of the income year, or any such obligation held by the taxpayer primarily for sale to customers in the ordinary course of its trade or business.

SEC. 31. Section 24372 of the Revenue and Taxation Code is repealed.

SEC. 32. Section 24377 of the Revenue and Taxation Code is amended to read:

24377. (a) A taxpayer engaged in the business of farming may elect to treat as expenses which are not chargeable to capital account expenditures (otherwise chargeable to capital account) which are paid or incurred by it during the income year for the purchase or acquisition of fertilizer, lime, ground limestone, marl, or other materials to enrich, neutralize, or condition land used in farming, or for the application of such materials to such land. The expenditures so treated shall be allowed as a deduction.

(b) For purposes of subdivision (a), the term "land used in farming" means land used (before or simultaneously with the expenditures described in subdivision (a)) by the taxpayer or its tenant for the production of crops, fruits, or other agricultural products or for the sustenance of livestock.

(c) The election under subdivision (a) for any income year shall be made within the time prescribed by law (including extensions thereof) for filing the return for that income year. The election shall be made in the form and manner as the Franchise Tax Board may prescribe. The election may not be revoked except with the consent of the Franchise Tax Board.

SEC. 33. Section 24434 of the Revenue and Taxation Code, as amended by Chapter 117 of the Statutes of 1991, is amended to read:

24434. (a) In the case of a taxpayer (other than a bank as defined in Section 23039) no deduction shall be allowed under Section 24347 or 24348 by reason of the worthlessness of any debt owed by a political party.

(b) (1) For purposes of subdivision (a), the term "political party" means any of the following:

(A) A political party.

(B) A national, state, or local committee of a political party.

(C) A committee, association, or organization which accepts contributions or makes expenditures for the purpose of influencing or attempting to influence the election of presidential or vice presidential electors or of any individual whose name is presented for election to any federal, state, or local elective public office, whether or not such individual is elected.

(2) For purposes of paragraph (1) (C), the term "contributions" includes a gift, subscription, loan, advance, or deposit, of money, or anything of value, and includes a contract, promise, or agreement to make a contribution, whether or not legally enforceable.

(3) For purposes of paragraph (1) (C), the term "expenditures" includes a payment, distribution, loan, advance, deposit, or gift, of money, or anything of value, and includes a contract, promise, or agreement to make an expenditure, whether or not legally enforceable.

(c) In the case of a taxpayer who uses an accrual method of accounting, subdivision (a) shall not apply to a debt which accrued as a receivable on a bona fide sale of goods or services in the ordinary course of a taxpayer's trade or business if both of the following apply:

(1) For the income year in which the receivable accrued, more

than 30 percent of all receivables which accrued in the ordinary course of the trades or businesses of the taxpayer were due from political parties.

(2) The taxpayer made substantial continuing efforts to collect on the debt.

SEC. 34. Section 25555 of the Revenue and Taxation Code is amended to read:

25555. (a) In the case of taxpayers subject to the tax imposed by this part the tax, and any interest and penalties thereon, shall be paid to the Franchise Tax Board. Remittances may be in the form of a check, payable to the Franchise Tax Board, during that period and under those regulations as the Franchise Tax Board may prescribe. If a check is not paid by the bank on which it is drawn, the taxpayer tendering the check shall remain liable for the payment of the tax, and all interest and penalties, as if the check had not been tendered.

(b) Notwithstanding Title 1.3 (commencing with Section 1747) of Part 4 of Division 3 of the Civil Code, the Franchise Tax Board may allow remittances to be in the form of a credit account number and authorization to draw upon a specified credit account, at that time and under those conditions as the Franchise Tax Board may prescribe. Remittances in the form of an authorization to draw upon a specified credit account shall include an amount, not to exceed 1 and one-half percent of the balance otherwise due, for purposes of paying the discount rate associated with drawing upon the credit account.

(c) Remittances made pursuant to subdivision (b) may be drawn on an account with a financial institution which agrees to add the discount rate associated with the use of the credit account number to the credit card holder's billing. Remittances drawn as described in this subdivision shall not include an amount for purposes of paying the discount rate associated with drawing upon the credit account.

SEC. 35. Section 25940 of the Revenue and Taxation Code, as added by Section 1 of Chapter 1513 of the Statutes of 1990, is amended and renumbered to read:

25941. Whenever any foreign corporation which fails to qualify to do business in this state or whose powers, rights, and privileges have been forfeited, or any domestic corporation which has been suspended, and which is doing business in this state, within the meaning of Section 23101, fails to make and file a return as required by this part, the Franchise Tax Board shall impose a penalty of two thousand dollars ($2,000) per income year, unless the failure to file is due to reasonable cause and not willful neglect. The penalty shall be in addition to any other penalty which may be due under this part. The penalty shall be imposed if the return is not filed within 60 days after the Franchise Tax Board sends the taxpayer a notice and demand to file the required tax return.

SEC. 36. Section 25954.3 of the Revenue and Taxation Code is amended to read:

25954.3. (a) Notwithstanding any other provision of this article,

if the amount of estimated tax due and payable under Section 25563 is only the minimum franchise tax imposed by Section 23153, then the addition to the tax with respect to any underpayment of any installment imposed by Section 25951 shall be calculated only on the basis of the amount of the minimum franchise tax.

(b) This section shall not apply to a large corporation or a large worldwide corporation as defined in subdivisions (b) and (c) of Section 25954.

(c) This section shall apply to income years beginning on and after January 1, 1986.

SEC. 37. This act provides for a tax levy within the meaning of Title IV of the Constitution and shall go into immediate effect.

CHAPTER 473

An act to amend Sections 6454, 6472, 6592, and 25555 of, to add Article 1.2 (commencing with Section 6479.3) to Chapter 5 of Part 1 of Division 2 of, and to add Section 25555.5 to, the Revenue and Taxation Code, and to amend Sections 1110, 1112, and 13021 of, and to add Section 13021.5 to, the Unemployment Insurance Code, relating to taxation, and making an appropriation therefor.

[Approved by Governor October 2, 1991. Filed with Secretary of State October 2, 1991.]

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

SECTION 1. The Legislature finds and declares that it is in the best interests of the State of California to implement efficient and effective procedures for the collection of tax revenues from taxpayers and employers. Accordingly, it is the intent of the Legislature in enacting this act that the State Board of Equalization, Franchise Tax Board, and Employment Development Department, in cooperation with the Treasurer's office, the Controller's office, and any other necessary state agency, establish a program for the collection of the following taxes, where they exceed designated amounts, through the use of electronic funds transfer transactions:

(a) Sales and use taxes.

(b) Bank and corporation taxes.

(c) Disability insurance and personal income taxes withheld by employers.

SEC. 2. Section 6454 of the Revenue and Taxation Code is amended to read:

6454. Except as provided in Section 6479.3, a person required to file the return shall deliver the return together with a remittance of the amount of the tax due to the office of the board.

SEC. 3. Section 6472 of the Revenue and Taxation Code is amended to read:

6472. Except in the case of persons required to remit amounts due in accordance with Article 1.2 (commencing with Section 6479.3), for purposes of Section 6471, prepayment shall be accompanied by a report of the amount of the prepayment in a form prescribed by the board and shall be made to the board as follows:

(a) In the first, third, and fourth calendar quarters, on or before the 24th day next following the end of each of the first two monthly periods of each quarterly period.

(b) In the second calendar quarter as follows:

(1) The first prepayment on or before the 24th day next following the end of the first monthly period of each quarterly period.

(2) The second prepayment on or before the 23rd day of the third monthly period of each quarterly period for the second monthly period and the first 15 days of the third monthly period of each quarterly period.

SEC. 4. Article 1.2 (commencing with Section 6479.3) is added to Chapter 5 of Part 1 of Division 2 of the Revenue and Taxation Code, to read:

Article 1.2. Payment by Electronic Funds Transfer

6479.3. (a) For purposes of payments pursuant to Article 1 (commencing with Section 6451) and prepayments pursuant to Article 1.1 (commencing with Section 6470), any person whose estimated tax liability under this part averages fifty thousand dollars ($50,000) or more per month, as determined by the board pursuant to methods of calculation prescribed by the board, shall remit amounts due by an electronic funds transfer under procedures prescribed by the board.

(b) Any person whose estimated tax liability under this part averages less than fifty thousand dollars ($50,000) per month may voluntarily remit amounts due by electronic funds transfer with the approval of the board.

(c) Any person remitting amounts due pursuant to subdivision (a) or (b) shall perform electronic funds transfers in compliance with the due dates set forth in Article 1 (commencing with Section 6451) and Article 1.1 (commencing with Section 6470). Payment is deemed complete on the date the electronic funds transfer is initiated, if settlement to the state's demand account occurs on or before the banking day following the date the transfer is initiated. If settlement to the state's demand account does not occur on or before the banking day following the date the transfer is initiated, payment is deemed to occur on the date settlement occurs.

(d) Any person required to remit taxes pursuant to this section shall, on or before the last day of the month following each quarter, file a return for the preceding quarter in the form and manner prescribed by the board. Any person who fails to timely file the return required by this subdivision shall be assessed a penalty of 10 percent of the amount of taxes, exclusive of prepayments, with

respect to the quarter for which the return is required.

(e) Any person required to remit taxes pursuant to this article who remits those amounts by means other than appropriate electronic funds transfers in accordance with board procedures shall be assessed a penalty of 10 percent of the taxes due at the time of the payment.

(f) In determining whether a person's estimated tax liability averages fifty thousand dollars ($50,000) or more per month for purposes of this section, the board may consider tax returns filed pursuant to this part, in addition to any information which is in, or may come into, the board's possession.

(g) The board shall promulgate regulations pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code for purposes of implementing this section.

(h) This section shall become operative on January 1, 1993. On or before September 30, 1992, the board shall notify those persons subject to this section of this section's requirements.

(i) This section shall be effective until January 1, 1995, and as of that date is repealed.

6479.3. (a) For purposes of payments pursuant to Article 1 (commencing with Section 6451) and prepayments pursuant to Article 1.1 (commencing with Section 6470), any person whose estimated tax liability under this part averages twenty thousand dollars ($20,000) or more per month, as determined by the board pursuant to methods of calculation prescribed by the board, shall remit amounts due by an electronic funds transfer under procedures prescribed by the board.

(b) Any person whose estimated tax liability under this part averages less than twenty thousand dollars ($20,000) per month may voluntarily remit amounts due by electronic funds transfer with the approval of the board.

(c) Any person remitting amounts due pursuant to subdivision (a) or (b) shall perform electronic funds transfer in compliance with the due dates set forth in Article 1 (commencing with Section 6451) and Article 1.1 (commencing with Section 6470). Payment is deemed complete on the date the electronic funds transfer is initiated, if settlement to the state's demand account occurs on or before the banking day following the date the transfer is initiated. If settlement to the state's demand account does not occur on or before the banking day following the date the transfer is initiated, payment is deemed to occur on the date settlement occurs.

(d) Any person required to remit taxes pursuant to this section shall, on or before the last day of the month following each quarter, file a return for the preceding quarter in the form and manner prescribed by the board. Any person who fails to timely file the return required by this subdivision shall be assessed a penalty of 10 percent of the amount of taxes, exclusive of prepayments, with respect to the quarter for which the return is required.

(e) Any person required to remit taxes pursuant to this article

who remits those amounts by means other than appropriate electronic funds transfers in accordance with the board procedures shall be assessed a penalty of 10 percent of taxes due at the time of payment.

(f) In determining whether a person's estimated tax liability averages twenty thousand dollars ($20,000) or more per month for purposes of this section, the board may consider tax returns filed pursuant to this part, in addition to any information that is in, or may come into, the board's possession.

(g) The board shall promulgate regulations pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code for purposes of implementing this section.

(h) This section shall become operative on January 1, 1995.

6479.4. If the board finds that a person's failure to make payment by an appropriate electronic funds transfer in accordance with board procedures is due to reasonable cause and circumstances beyond the person's control, and occurred notwithstanding the exercise of ordinary care and in the absence of willful neglect, that person shall be relieved of the penalty provided in subdivision (e) of Section 6479.3.

6479.5. (a) "Electronic funds transfer" means any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, that is initiated through an electronic terminal, telephonic instrument, or computer or magnetic tape, so as to order, instruct, or authorize a financial institution to debit or credit an account. Electronic funds transfers shall be accomplished by an automated clearinghouse debit, an automated clearinghouse credit, or by Federal Reserve Wire Transfer (Fedwire).

(b) "Automated clearinghouse" means any federal reserve bank, or an organization established in agreement with the National Automated Clearing House Association, that operates as a clearinghouse for transmitting or receiving entries between banks or bank accounts and which authorizes an electronic transfer of funds between these banks or bank accounts.

(c) "Automated clearinghouse debit" means a transaction in which the state, through its designated depository bank, originates an automated clearinghouse transaction debiting the person's bank account and crediting the state's bank account for the amount of tax. Banking costs incurred for the automated clearinghouse debit transaction shall be paid by the state.

(d) "Automated clearinghouse credit" means an automated clearinghouse transaction in which the person through his or her own bank, originates an entry crediting the state's bank account and debiting his or her own bank account. Banking costs incurred for the automated clearinghouse credit transaction charged to the state shall be paid by the person originating the credit.

(e) "Fedwire transfer" means any transaction originated by a person and utilizing the national electronic payment system to transfer funds through the federal reserve banks, when that person

debits his or her own bank account and credits the state's bank account. Electronic funds transfers pursuant to Section 6479.3 may be made by Fedwire only if payment cannot, for good cause, be made according to subdivision (a), and the use of Fedwire is preapproved by the board. Banking costs incurred for the Fedwire transaction charged to the person and to the state shall be paid by the person originating the transaction.

SEC. 5. Section 6592 of the Revenue and Taxation Code is amended to read:

6592. If the board finds that a person's failure to make a timely return or payment is due to reasonable cause and circumstances beyond the person's control, and occurred notwithstanding the exercise of ordinary care and the absence of willful neglect, the person shall be relieved of the penalties provided by Sections 6476, 6477, 6480.4, 6480.8, 6511, 6565, 6591, 7051.2, and subdivisions (d) and (e) of Section 6479.3.

Any person seeking to be relieved of the penalty shall file with the board a statement under penalty of perjury setting forth the facts upon which he or she bases his or her claim for relief.

SEC. 6. Section 25555 of the Revenue and Taxation Code is amended to read:

25555. (a) In the case of taxpayers subject to the tax imposed by this part the tax, and any interest and penalties thereon, shall be paid to the Franchise Tax Board. Except as provided in Section 25555.5, remittances may be in the form of a check, payable to the Franchise Tax Board, at the time and in the manner as the Franchise Tax Board may prescribe. If a check is not paid by the bank on which it is drawn, the taxpayer tendering the check shall remain liable for the payment of the tax, and all interest and penalties, as if the check had not been tendered.

(b) Notwithstanding Title 1.3 (commencing with Section 1747) of Part 4 of Division 3 of the Civil Code, the Franchise Tax Board may allow remittances to be in the form of a credit account number and authorization to draw upon a specified credit account, at that time and under those conditions as the Franchise Tax Board may prescribe. Remittances in the form of an authorization to draw upon a specified credit account shall include an amount, not to exceed 2 percent of the balance otherwise due, for purposes of paying the discount rate associated with drawing upon the credit account.

(c) Remittances made pursuant to subdivision (b) may be drawn on an account with a financial institution which agrees to add the discount rate associated with the use of the credit account number to the credit card holder's billing. Remittances drawn as described in this subdivision shall not include an amount for purposes of paying the discount rate associated with drawing upon the credit account.

SEC. 7. Section 25555.5 is added to the Revenue and Taxation Code, to read:

25555.5. (a) All payments required under this part shall be remitted to the Franchise Tax Board by electronic funds transfer

pursuant to Division 11 (commencing with Section 11101) of the Commercial Code, if any of the following conditions exist with respect to any taxpayer:

(1) The estimated tax payment averages fifty thousand dollars ($50,000) or more per payment in any tax year beginning on or after January 1, 1991, or twenty thousand dollars ($20,000) or more per payment in any income year beginning on or after January 1, 1995.

(2) The total tax liability for any income year beginning on and after January 1, 1991, was in excess of two hundred thousand dollars ($200,000), or eighty thousand dollars ($80,000) or more in any income year beginning on or after January 1, 1995.

(b) Any taxpayer required to remit payment by electronic funds transfer pursuant to this section who makes payment by other means shall pay a penalty of 10 percent of the amount paid, unless it is shown that the failure to make payment as required was for reasonable cause and was not the result of willful neglect.

(c) Any taxpayer not required to remit payments to the Franchise Tax Board by electronic funds transfer may submit a request to the Franchise Tax Board for permission to voluntarily make electronic funds transfers.

(d) Any taxpayer required to remit payments by electronic funds transfer pursuant to this section may request a waiver of those requirements from the Franchise Tax Board. The Franchise Tax Board may grant a waiver only if it determines that the particular amounts paid in excess of the threshold amounts established in this section were not representative of the taxpayer's tax liability. If a taxpayer is granted a waiver, subsequent remittances by electronic funds transfer shall be required only on those terms set forth in the waiver.

(e) The Franchise Tax Board shall accept remittances by electronic funds transfer pursuant to this section no later than January 1, 1993. Electronic funds transfer procedures, in addition to those described in subdivision (f), shall be as prescribed by the Franchise Tax Board. Payment is deemed complete on the date the electronic funds transfer is initiated, if settlement to the state's demand account occurs on or before the banking day following the date the transfer is initiated. If settlement to the state's demand account does not occur on or before the banking day following the date the transfer is initiated, payment is deemed to occur on the date settlement occurs.

(f) For purposes of this section:

(1) "Electronic funds transfer" means any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, that is initiated through an electronic terminal, telephonic instrument, or computer or magnetic tape, so as to order, instruct, or authorize a financial institution to debit or credit an account. Electronic funds transfer shall be accomplished by an automated clearinghouse debit, automated clearinghouse credit, or by Federal Reserve Wire Transfer (Fedwire).

(2) "Automated clearinghouse" means any federal reserve bank, or an organization established by agreement with the National Automated Clearing House Association, that operates as a clearinghouse for transmitting or receiving entries between banks or bank accounts and that authorizes an electronic transfer of funds between those banks or bank accounts.

(3) "Automated clearinghouse debit" means a transaction in which any department of the state, through its designated depository bank, originates an automated clearinghouse transaction debiting the taxpayer's bank account and crediting the state's bank account for the amount of tax. Banking costs incurred for the automated clearinghouse debit transaction by the taxpayer shall be paid by the state.

(4) "Automated clearinghouse credit" means an automated clearinghouse transaction in which the taxpayer, through its own bank, originates an entry crediting the state's bank account and debiting its own bank account. Banking costs incurred by the state for the automated clearinghouse credit transaction shall be paid by the taxpayer.

(5) "Fedwire" means any transaction originated by the taxpayer and utilizing the national electronic payment system to transfer funds through federal reserve banks, pursuant to which the taxpayer debits its own bank account and credits the state's bank account. Electronic funds transfers may be made by Fedwire only if prior approval is obtained from the Franchise Tax Board and the taxpayer is unable, for reasonable cause, to make payments pursuant to paragraph (3) or (4). Banking costs charged to the taxpayer and to the state shall be paid by the taxpayer.

(6) In determining whether a payment or total tax liability exceeds the amounts established in subdivision (a), all taxpayers whose income derived from, or attributable to, sources within this state is required to be determined by a combined report shall be aggregated and the total aggregate amount shall be considered to be the payment or total tax liability of a single taxpayer.

(g) This section shall become operative on January 1, 1993.

SEC. 8. Section 1110 of the Unemployment Insurance Code is amended to read:

1110. (a) Employer contributions required under Sections 976 and 976.6, the amount of benefits received by any individual pursuant to this part that is deducted from an award or settlement made by the employer under the provisions of Section 1382, and, except as provided by subdivision (b) of this section, worker contributions required under Section 984 are due and payable on the first day of the calendar month following the close of each calendar quarter and shall become delinquent if not paid on or before the last day of that month.

(b) Workers' contributions required under Section 984 are due and payable at the same time and by the same method as amounts required to be withheld under Section 13020 are paid to the

department pursuant to Section 13021, regardless of the amount of accumulated unpaid liability for workers' contributions.

(c) Employer contributions submitted pursuant to Section 976.5 shall be paid on or before the last working day of March of the calendar year to which the reduced contribution rate would be applicable.

SEC. 9. Section 1112 of the Unemployment Insurance Code is amended to read:

1112. Any employer who without good cause fails to pay any contributions required of him or her or of his or her workers, except amounts assessed under Article 8 of this chapter, within the time and by the method of payment required shall pay a penalty of 10 percent of the amount of those contributions.

SEC. 10. Section 13021 of the Unemployment Insurance Code is amended to read:

13021. (a) Every employer required to withhold any tax under Section 13020 shall for each calendar quarter, whether or not wages or payments are paid in the quarter, file a withholding return in a form prescribed by the department, and pay over the taxes so required to be withheld. Except as provided in subdivisions (b) and (c) of this section, the employer shall file a withholding return and remit the total amount of income taxes withheld during the calendar quarter on or before the last day of the month following the close of the calendar quarter.

(b) Whenever an employer is required, for federal income tax purposes, to remit the total amount of withheld federal income tax in accordance with Section 6302 of the Internal Revenue Code and regulations thereunder, and the accumulated amount of state income tax withheld is more than seventy-five dollars ($75), the employer shall remit the total amount of income tax withheld for state income tax purposes within the number of banking days as specified for withheld federal income taxes by Section 6302 of the Internal Revenue Code, and regulations thereunder.

(c) (1) Notwithstanding subdivisions (a) and (b), for calendar years beginning prior to January 1, 1995, if in the 12-month period ending June 30 of the prior year the cumulative average payment made pursuant to this division or Section 1110, for eighth monthly periods, as defined under Section 6302 of the Internal Revenue Code and regulations thereunder, was fifty thousand dollars ($50,000) or more, the employer shall remit the total amount of income tax withheld within three banking days following the close of each eighth monthly period. For purposes of this subdivision, payment shall be made by electronic funds transfer in accordance with Section 13021.5, for one calendar year beginning on January 1. Payment is deemed complete on the date the electronic funds transfer is initiated, if settlement to the state's demand account occurs on or before the banking day following the date the transfer is initiated. If settlement to the state's demand account does not occur on or before the banking day following the date the transfer is initiated, payment

is deemed to occur on the date settlement occurs. The department shall, on or before October 31 of the prior year, notify all employers required to make payment by electronic funds transfer of these requirements.

(2) Notwithstanding subdivisions (a) and (b), for calendar years beginning on or after January 1, 1995, if in the 12-month period ending June 30 of the prior year, the cumulative average payment made pursuant to this division or Section 1110 for eighth monthly periods, as defined under Section 6302 of the Internal Revenue Code and regulations thereunder, was twenty thousand dollars ($20,000) or more, the employer shall remit the total amount of income tax withheld within three banking days following the close of each eighth monthly period. For purposes of this subdivision, payment shall be made by electronic funds transfer in accordance with Section 13021.5, for one calendar year beginning on January 1. Payment is deemed complete on the date the electronic funds transfer is initiated, if settlement to the state's demand account occurs on or before the banking day following the date the transfer is initiated. If settlement to the state's demand account does not occur on or before the banking day following the date the transfer is initiated, payment is deemed to occur on the date settlement occurs. The department shall, on or before October 31 of the prior year, notify all employers required by this paragraph to make payments by electronic funds transfer of these requirements.

(d) Any employer not required to make payment pursuant to subdivision (c) of this section may elect to make payment by electronic funds transfer in accordance with Section 13021.5 under the following conditions:

(1) The election shall be made in a form, and shall contain information, as prescribed by the director, and shall be subject to approval by the department.

(2) The election shall be made by October 31 and, if approved, shall be operative on January 1 of the following year.

(3) The election shall be operative for one calendar year.

(e) Notwithstanding Section 1112, no interest or penalties shall be assessed against any employer who remits at least 95 percent of the amount required by subdivision (b) or (c), provided that the failure to remit the full amount is not willful and any remaining amount due is paid with the next payment. The director may allow any employer to submit the amounts due from multiple locations upon a showing that those submissions are necessary to comply with the provisions of subdivision (b) or (c).

(f) The department may, if it believes that action is necessary, require any employer to make the return required by this section and pay to it the tax deducted and withheld at any time, or from time to time but no less frequently than provided for in subdivision (a).

(g) Any employer required to withhold any tax and who is not required to make payment under subdivision (b) shall remit the total amount of income tax withheld during each month of each

calendar quarter, on or before the 15th day of the subsequent month if the income tax withheld for any of the three months or, cumulatively for two or more months, is three hundred fifty dollars ($350) or more.

(h) For purposes of subdivisions (a), (b), and (g), payment is deemed complete when it is placed in a properly addressed envelope, bearing the correct postage, and it is deposited in the United States mail. For purposes of subdivision (c), payment is deemed complete on the date the electronic funds transfer is initiated, if settlement to the state's demand account occurs on or before the banking day following the date the transfer is initiated. If settlement to the state's demand account does not occur on or before the banking day following the date the transfer is initiated, payment is deemed to occur on the date settlement occurs.

SEC. 11. Section 13021.5 is added to the Unemployment Insurance Code, to read:

13021.5. (a) "Electronic funds transfer" means any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, that is initiated through an electronic terminal, telephonic instrument, or computer or magnetic tape, so as to order, instruct, or authorize a financial institution to debit or credit an account. Electronic funds transfers shall be accomplished by an automated clearinghouse debit, an automated clearinghouse credit, Fedwire, or by other specific electronic funds transfer methods approved in advance by the department.

(b) "Automated clearinghouse" means any federal reserve bank, or an organization established in agreement with the National Automated Clearing House Association, that operates as a clearinghouse for transmitting or receiving entries between banks and/or bank accounts and which authorizes an electronic transfer of funds between those banks or bank accounts.

(c) "Automated clearinghouse debit" means a transaction in which the state, through its designated depository bank, originates an automated clearinghouse transaction debiting the employer's bank account and crediting the state's bank account for the amount of tax. Banking costs incurred for the automated clearinghouse debit transaction shall be paid by the state.

(d) "Automated clearinghouse credit" means an automated clearinghouse transaction in which the employer through its own bank, originates an entry crediting the state's bank account and debiting its own bank account. Banking costs incurred for the automated clearinghouse credit transaction charged to the employer and to the state shall be paid by the employer.

(e) "Fedwire" means any transaction originated by the employer and utilizing the national electronic payment system to transfer funds through the federal reserve banks, pursuant to which the employer debits its own bank account and credits the state's bank account. Electronic funds transfer payments may be made by Fedwire only if prior approval is obtained from the department and

payment cannot, for good cause, be made pursuant to subdivision (a). Banking costs incurred for the Fedwire transaction charged to the employer and to the state shall be paid by the employer.

SEC. 12. For purposes of implementing this act in the 1991–92 fiscal year, the sum of three hundred ninety thousand nine hundred fifty-two dollars ($390,952) is hereby appropriated from the General Fund to the Controller for allocation as follows:

(a) The sum of two hundred twenty-four thousand one hundred dollars ($224,100) to the State Board of Equalization in augmentation of Item 0860-001-001 of Section 2 of the Budget Act of 1991 (Ch. 118, Stats. 1991).

(b) The sum of sixty-seven thousand one hundred and fifty-two dollars ($67,152) to the Employment Development Department in augmentation of Item 5100-001-001 of Section 2 of the Budget Act of 1991 (Ch. 118, Stats. 1991).

(c) The sum of ninety-nine thousand seven hundred dollars ($99,700) to the Franchise Tax Board in augmentation of Item 1730-001-001 of Section 2 of the Budget Act of 1991 (Ch. 118, Stats. 1991).

Funds to implement this act for the 1992–93 fiscal year, and each fiscal year thereafter, shall be provided for in the annual Budget Act.

CHAPTER 474

An act to amend Sections 10753.8, 17024.5, 17041, 17054.1, 17077, 17276, 17276.3, 23701t, 24416, 24416.2, 24416.3, and 25954 of, to add Section 10753.9 to, to amend and renumber Section 10753.5 of, and to repeal Section 17047 of, the Revenue and Taxation Code, and to amend Section 13043 of the Unemployment Insurance Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor October 2, 1991. Filed with Secretary of State October 2, 1991.]

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

SECTION 1. Section 10753.5 of the Revenue and Taxation Code, as added by Section 12.5 of Chapter 117 of the Statutes of 1991, is amended and renumbered to read:

17053.5. (a) In the case of qualified renters, there shall be allowed credits against their "net tax" (as defined in Section 17039). The credit shall be in the amount of one hundred twenty dollars ($120) for married couples filing joint returns, heads of household and surviving spouses (as defined in Section 17046), and sixty dollars ($60) for other individuals.

Except as provided in subdivision (b), a husband and wife shall receive but one credit under this section. If the husband and wife file separate returns, the credit may be taken by either or equally

divided between them, except as follows:

(1) If one spouse was a resident for the entire taxable year and the other spouse was a nonresident for part or all of the taxable year, the resident spouse shall be allowed one-half the credit allowed to married persons and the nonresident spouse shall be permitted one-half the credit allowed to married persons, prorated as provided in subdivision (e).

(2) If both spouses were nonresidents for part of the taxable year, the credit allowed to married persons shall be divided equally between them subject to the proration provided in subdivision (e).

(b) In the case of a husband and wife, if each spouse maintained a separate place of residence and resided in this state during the entire taxable year, each spouse will be allowed one-half the full credit allowed to married persons provided in subdivision (a).

(c) For purposes of this section, a "qualified renter" means an individual who:

(1) Was a resident of this state, as defined in Section 17014, and

(2) Rented and occupied premises in this state which constituted his or her principal place of residence during at least 50 percent of the taxable year.

(d) The term "qualified renter" does not include any of the following:

(1) An individual who for more than 50 percent of the taxable year rented and occupied premises which were exempt from property taxes, except that an individual, otherwise qualified, shall be deemed a qualified renter if he or she or his or her landlord pays possessory interest taxes, or the owner of those premises makes payments in lieu of property taxes which are substantially equivalent to property taxes paid on properties of comparable market value.

(2) An individual whose principal place of residence for more than 50 percent of the taxable year is with any other person who claimed such individual as a dependent for income tax purposes.

(3) An individual who has been granted or whose spouse has been granted the homeowners' property tax exemption during the taxable year. This paragraph shall not apply in the case of an individual whose spouse has been granted the homeowners' property tax exemption if each spouse maintained a separate residence for the entire taxable year.

(e) Any otherwise qualified renter who is a nonresident for any portion of the taxable year shall claim the credits set forth in subdivision (a) at the rate of one-twelfth of those credits for each full month that individual resided within this state during the taxable year.

(f) Every person claiming the credit provided in this section shall, as part of that claim, and under penalty of perjury, furnish that information as the Franchise Tax Board prescribes on a form supplied by the board.

(g) The credit provided in this section shall be claimed on returns in the form as the Franchise Tax Board may from time to time

prescribe.

(h) For the purposes of this section, the term "premises" means a house or a dwelling unit used to provide living accommodations in a building or structure and the land incidental thereto, but does not include land only, except in the case where the dwelling unit is a mobilehome. The credit shall not be allowed for any taxable year for the rental of land upon which a mobilehome is located if the mobilehome has been granted a homeowners' exemption under Section 218 in that year.

(i) In the case of qualified renters whose credits provided in this section exceed their tax liability computed under this part the excess shall be credited against other amounts due, if any, from the qualified renter and the balance, if any, shall be refunded to the qualified renter.

(j) This section shall become operative on January 1, 1996, and shall apply to any taxable year beginning on or after January 1, 1996.

SEC. 2. Section 10753.8 of the Revenue and Taxation Code, as added by Chapter 87 of the Statutes of 1991, is amended to read:

10753.8. (a) In addition to the license fee for any vehicle calculated pursuant to Section 10752, a surcharge in an amount equal to 2.2 percent of the fee under Section 10752 shall be added to that fee for any initial or original registration of any vehicle never before registered in this state for which the fees become due on or after August 1, 1991, and before August 1, 1992, and for any renewal of registration with an expiration date on or after August 1, 1991, and before August 1, 1992.

(b) This section shall cease to be operative on the first day of the month following the month in which the Department of Motor Vehicles is notified by the Department of Finance of a final judicial determination by the California Supreme Court or any California court of appeal of either of the following:

(1) The allocation of funds from the Vehicle License Fee Account or the Vehicle License Fee Growth Account of the Local Revenue Fund established during the 1991–92 Regular Session is in violation of Section 15 of Article XI of the California Constitution.

(2) The state is obligated to reimburse counties for costs of providing medical services to medically indigent adults pursuant to Chapters 328 and 1594 of the Statutes of 1982.

SEC. 3. Section 10753.9 is added to the Revenue and Taxation Code, to read:

10753.9. (a) After determining the cost price to the purchaser, as provided in this article, the department shall classify or reclassify every vehicle in its proper class according to the classification plan set forth in this section.

(b) For the purpose of this part, a classification plan is established consisting of the following classes: a class from no dollars ($0) to and including forty-nine dollars and ninety-nine cents ($49.99); a class from fifty dollars ($50) to and including one hundred ninety-nine dollars and ninety-nine cents ($199.99); and thereafter a series of

classes successively set up in brackets having a spread of two hundred dollars ($200), consisting of that number of classes as will permit classification of all vehicles.

(c) The market value of a vehicle for each registration year, starting with the year the vehicle was first sold to a consumer as a new vehicle, or the year the vehicle was first purchased or assembled by the person applying for original registration in this state, or the year ownership of a used vehicle was sold or transferred to the current registered owner, shall be as follows: for the first year, 85 percent of a sum equal to the middle point between the extremes of its class as established in subdivision (b); for the second year, 85 percent of that sum; for the third year, 70 percent of that sum; for the fourth year, 55 percent of that sum; for the fifth year, 40 percent of that sum; for the sixth year, 30 percent of that sum; for the seventh year, 25 percent of that sum; for the eighth year, 15 percent of that sum; for the ninth year, 10 percent of that sum; for the 10th year and each succeeding year, 5 percent of that sum; provided, however, that the minimum tax shall be the sum of one dollar ($1). Notwithstanding this subdivision, the market value of a trailer coach first sold on and after January 1, 1966, which is required to be moved under permit as authorized in Section 35790 of the Vehicle Code, shall be determined by the schedule in Section 10753.3.

(d) This section shall become operative and shall apply to both of the following:

(1) Initial or original registration of any vehicle never before registered in this state for which fees become due on July 15, 1991, and on or before July 31, 1991.

(2) Renewal of registration of any vehicle whose registration expires on or before July 31, 1991.

SEC. 4. Section 17024.5 of the Revenue and Taxation Code, as amended by Chapter 117 of the Statutes of 1991, is amended to read:

17024.5. (a) (1) Unless otherwise specifically provided, the terms "Internal Revenue Code," "Internal Revenue Code of 1954," or "Internal Revenue Code of 1986," for purposes of this part, mean Title 26 of the United States Code, including all amendments thereto as enacted on the specified date for the applicable taxable year as follows:

Taxable Year	Specified Date of Internal Revenue Code Sections
(A) For taxable years beginning on or after January 1, 1983, and on or before December 31, 1983	January 15, 1983
(B) For taxable years beginning on or after January 1, 1984, and on or before December 31, 1984	January 1, 1984
(C) For taxable years beginning on or after January 1, 1985, and on or before De-	

cember 31, 1985	January 1, 1985
(D) For taxable years beginning on or after January 1, 1986, and on or before December 31, 1986	January 1, 1986
(E) For taxable years beginning on or after January 1, 1987, and on or before December 31, 1988	January 1, 1987
(F) For taxable years beginning on or after January 1, 1989, and on or before December 31, 1989	January 1, 1989
(G) For taxable years beginning on or after January 1, 1990, and on or before December 31, 1990	January 1, 1990
(H) For taxable years beginning on or after January 1, 1991	January 1, 1991

(2) For purposes of subparagraphs (C) and (D) of paragraph (1), the following applies:

(A) The provisions contained in Sections 41–44, inclusive, and 172 of the Tax Reform Act of 1984 (Public Law 98-369), relating to treatment of debt instruments, shall not be applicable.

(B) The provisions contained in Public Law 99-121, relating to the treatment of debt instruments, shall not be applicable.

(3) For taxable years beginning on and after January 1, 1987, the provisions referred to by subparagraphs (A) and (B) of paragraph (2) shall be applicable for purposes of this part in the same manner and with respect to the same obligations as the federal provisions, except as otherwise provided in this part.

(4) Unless otherwise specifically provided, the following shall apply:

(A) Any provision of the Internal Revenue Code which is operative on or after the specified date for that taxable year shall also be operative on the same date for purposes of this part.

(B) Any provision of the Internal Revenue Code which is inoperative on or after the specified date for that taxable year shall also be inoperative on the same date for purposes of this part.

(5) Unless otherwise specifically provided, for federal laws enacted on or after January 1, 1987, and on or before the specified date for the taxable year, uncodified provisions that relate to provisions of the Internal Revenue Code that are incorporated for purposes of this part shall be applicable to the same taxable years as the incorporated provisions.

(6) Subtitle G (Tax Technical Corrections) and Part I of Subtitle H (Repeal of Expired or Obsolete Provisions) of the Revenue Reconciliation Act of 1990 (Public Law 101-508) modified numerous provisions of the Internal Revenue Code and provisions of prior federal acts, some of which are incorporated by reference into this part. Unless otherwise provided, the provisions described in the preceding sentence, to the extent that they modify provisions that

are incorporated into this part, are declaratory of existing law and shall be applied in the same manner and for the same periods as specified in the Revenue Reconciliation Act of 1990.

(b) Unless otherwise specifically provided, when applying any section of the Internal Revenue Code for purposes of this part, any provision that refers to any of the following shall not be applicable for purposes of this part:

(1) Except as provided in Chapter 4.5 (commencing with Section 23800) of Part 11 of Division 2, an electing small business corporation, as defined in Section 1361(b) of the Internal Revenue Code.

(2) Domestic international sales corporations (DISC), as defined in Section 992(a) of the Internal Revenue Code.

(3) A personal holding company, as defined in Section 542 of the Internal Revenue Code.

(4) A foreign personal holding company, as defined in Section 552 of the Internal Revenue Code.

(5) A foreign investment company, as defined in Section 1246(b) of the Internal Revenue Code.

(6) A foreign trust, as defined in Section 679 of the Internal Revenue Code.

(7) Foreign income taxes and foreign tax credits.

(8) Section 911 of the Internal Revenue Code, relating to United States citizens living abroad.

(9) A foreign corporation, except that Section 367 of the Internal Revenue Code shall be applicable.

(10) Federal tax credits and carryovers of federal tax credits, except as provided in Section 162(*l*)(3) of the Internal Revenue Code, relating to coordination with medical deduction, etc., and Section 213(f) of the Internal Revenue Code, relating to coordination with health insurance credit under Section 32 of the Internal Revenue Code.

(11) Nonresident aliens.

(12) Deduction for personal exemptions, as provided in Section 151 of the Internal Revenue Code.

(13) The tax on generation-skipping transfers imposed by Section 2601 of the Internal Revenue Code.

(14) The tax, relating to estates, imposed by Section 2001 or 2101 of the Internal Revenue Code.

(c) When applying the Internal Revenue Code for purposes of this part, any reference to regulations prescribed by "the secretary" shall not be applicable if the Franchise Tax Board has adopted and issued regulations. In the absence of regulations issued by the Franchise Tax Board, regulations issued by "the secretary" in effect as of the specified effective date of the Internal Revenue Code sections referred to in subdivision (a) shall be applicable to the extent that they do not conflict with this part.

(d) Whenever this part allows a taxpayer to make an election, the following rules shall apply:

(1) A proper election filed in accordance with the Internal

Revenue Code or regulations issued by "the secretary" shall be deemed to be a proper election for purposes of this part, unless otherwise provided in this part or in regulations issued by the Franchise Tax Board.

(2) A copy of that election shall be furnished to the Franchise Tax Board upon request.

(3) To obtain treatment other than that elected for federal purposes, a separate election shall be filed with the Franchise Tax Board.

(e) Whenever this part allows or requires a taxpayer to file an application or seek consent, the rules set forth in subdivision (d) shall be applicable with respect to any such application or consent.

(f) When applying the Internal Revenue Code for purposes of determining the statute of limitations under this part, any reference to a period of three years shall be modified to read four years for purposes of this part.

(g) Unless otherwise specifically provided, when applying any section of the Internal Revenue Code for purposes of this part, any reference to the "secretary" shall mean the "Franchise Tax Board."

(h) When applying any section of the Internal Revenue Code for purposes of this part—

(1) References to "adjusted gross income" shall mean the amount computed in accordance with Section 17072, except as provided in paragraph (2).

(2) References to "adjusted gross income" for purposes of computing limitations based upon adjusted gross income, shall mean the amount required to be shown as adjusted gross income on the federal tax return for the same taxable year.

(3) References to "chapter" shall mean Part 10 (commencing with Section 17001) of Division 2 of the Revenue and Taxation Code.

(i) Unless otherwise specifically provided, when applying the Internal Revenue Code for purposes of this part, any reference to a specific provision of the Internal Revenue Code shall include modifications of that provision, if any, in this part.

SEC. 5. Section 17041 of the Revenue and Taxation Code, as amended by Chapter 117 of the Statutes of 1991, is amended to read:

17041. (a) (1) There shall be imposed for each taxable year upon the entire taxable income of every resident of this state, except the head of a household as defined in Section 17042, taxes in the following amounts and at the following rates upon the amount of taxable income:

If the taxable income is:	The tax is:
Not over $3,650	1% of the taxable income
Over $3,650 but not over $8,650	$36.50 plus 2% of the excess over $3,650
Over $8,650 but not over $13,650	$136.50 plus 4% of the excess over $8,650

Over $13,650 but not over $18,950	$336.50 plus 6% of the excess over $13,650
Over $18,950 but not over $23,950	$654.50 plus 8% of the excess over $18,950
Over $23,950	$1,054.50 plus 9.3% of the excess over $23,950

(2) (A) For any taxable year beginning on or after January 1, 1991, and before January 1, 1996, the income tax brackets and rates set forth in paragraph (1) shall be modified by each of the following:

(i) For that portion of taxable income that is over one hundred thousand dollars ($100,000) but not over two hundred thousand dollars ($200,000), the tax rate is 10 percent of the excess over one hundred thousand dollars ($100,000).

(ii) For that portion of taxable income that is over two hundred thousand dollars ($200,000), the tax rate is 11 percent of the excess over two hundred thousand dollars ($200,000).

(B) The income tax brackets specified in this paragraph shall be recomputed, as otherwise provided in subdivision (h), only for taxable years beginning on and after January 1, 1992.

(b) There shall be imposed for each taxable year upon the entire taxable income of every nonresident or part-year resident which is derived from sources in this state, except the head of a household as defined in Section 17042, a tax which shall be equal to the tax computed under subdivision (a) as if the nonresident or part-year resident were a resident multiplied by the ratio of California adjusted gross income to total adjusted gross income from all sources. For purposes of computing the tax under subdivision (a) and gross income from all sources, the net operating loss deduction provided in Section 172 of the Internal Revenue Code, as modified by Section 17276, shall be computed as if the taxpayer was a resident for all prior years.

(c) (1) There shall be imposed for each taxable year upon the entire taxable income of every resident of this state, when such resident is the head of a household, as defined in Section 17042, taxes in the following amounts and at the following rates upon the amount of taxable income:

If the taxable income is:	The tax is:
Not over $7,300	1% of the taxable income
Over $7,300 but not over $17,300	$73 plus 2% of the excess over $7,300
Over $17,300 but not over $22,300	$273 plus 4% of the excess over $17,300

Over $22,300 but not over $27,600	$473 plus 6% of the excess over $22,300
Over $27,600 but not over $32,600	$791 plus 8% of the excess over $27,600
Over $32,600	$1,191 plus 9.3% of the excess over $32,600

(2) (A) For any taxable year beginning on or after January 1, 1991, and before January 1, 1996, the income tax brackets and rates set forth in paragraph (1) shall be modified by each of the following:

(i) For that portion of taxable income that is over one hundred thirty-six thousand one hundred fifteen dollars ($136,115) but not over two hundred seventy-two thousand two hundred thirty dollars ($272,230), the tax rate is 10 percent of the excess over one hundred thirty-six thousand one hundred fifteen dollars ($136,115).

(ii) For that portion of taxable income that is over two hundred seventy-two thousand two hundred thirty dollars ($272,230), the tax rate is 11 percent of the excess over two hundred seventy-two thousand two hundred thirty dollars ($272,230).

(B) The income tax brackets specified in this paragraph shall be recomputed, as otherwise provided in subdivision (h), only for taxable years beginning on and after January 1, 1992.

(d) There shall be imposed for each taxable year upon the entire taxable income of every nonresident or part-year resident which is derived from sources within this state when such nonresident or part-year resident is the head of a household, as defined in Section 17042, a tax which shall be equal to the tax computed under subdivision (c) as if the nonresident or part-year resident were a resident multiplied by the ratio of California adjusted gross income to total adjusted gross income from all sources. For purposes of computing the tax under subdivision (c) and gross income from all sources, the net operating loss deduction provided in Section 172 of the Internal Revenue Code, as modified by Section 17276, shall be computed as if the taxpayer was a resident for all prior years.

(e) There shall be imposed for each taxable year upon the taxable income of every estate, trust, or common trust fund taxes equal to the amount computed under subdivision (a) for an individual having the same amount of taxable income.

(f) The tax imposed by this part is not a surtax.

(g) (1) For purposes of this section, the taxation of the unearned income of a minor child who has not attained age 14 before the close of the taxable year and who has a parent living at the close of the taxable year shall be determined in accordance with Section 1 (g) of the Internal Revenue Code, relating to certain unearned income of minor children taxed as if the parent's income.

(2) Section 1(g)(7)(B)(ii)(II) of the Internal Revenue Code, relating to income included on parent's return, is modified, for

purposes of this part, by substituting "five dollars ($5)" for "seventy-five dollars ($75)" and "1 percent" for "15 percent."

(3) Paragraph (1) shall not apply if both of the following are true:

(A) The adjusted gross income of the minor child does not exceed the maximum amount for which the percentage of credit is 100 percent under subdivision (b) of Section 17069 (as adjusted by subdivision (g) of Section 17069).

(B) The minor child is qualified for the low-income tax credit allowed by Section 17069.

(h) For each taxable year beginning on or after January 1, 1988, the Franchise Tax Board shall recompute the income tax brackets prescribed in subdivisions (a) and (c). That computation shall be made as follows:

(1) The California Department of Industrial Relations shall transmit annually to the Franchise Tax Board the percentage change in the California Consumer Price Index for all items from June of the prior calendar year to June of the current calendar year, no later than August 1 of the current calendar year.

(2) The Franchise Tax Board shall do both of the following:

(A) Compute an inflation adjustment factor by adding 100 percent to the percentage change figure that is furnished pursuant to paragraph (1) and dividing the result by 100.

(B) Multiply the preceding taxable year income tax brackets by the inflation adjustment factor determined in subparagraph (A) and round off the resulting products to the nearest one dollar ($1).

(i) (1) For purposes of this section, the term "California adjusted gross income" includes each of the following:

(A) For any part of the taxable year during which the taxpayer was a resident of this state (as defined by Section 17014), all items of adjusted gross income, regardless of source.

(B) For any part of the taxable year during which the taxpayer was not a resident of this state, only those items of adjusted gross income which were derived from sources within this state, determined in accordance with Chapter 11 (commencing with Section 17951).

(2) For purposes of computing "California adjusted gross income" under paragraph (1), the amount of any net operating loss sustained in any taxable year during any part of which the taxpayer was not a resident of this state shall be limited to the sum of the following:

(A) The amount of the loss attributable to the part of the taxable year in which the taxpayer was a resident.

(B) The amount of the loss which, during the part of the taxable year the taxpayer is not a resident, is attributable to California source income and deductions allowable in arriving at adjusted gross income.

SEC. 6. Section 17047 of the Revenue and Taxation Code is repealed.

SEC. 7. Section 17054.1 of the Revenue and Taxation Code, as added by Chapter 117 of the Statutes of 1991, is amended to read:

17054.1. (a) (1) In the case of any taxpayer whose federal adjusted gross income for the taxable year exceeds the threshold amount, each credit to which this section applies shall be reduced by six dollars ($6) for each two thousand five hundred dollars ($2,500), or fraction thereof, by which the taxpayer's federal adjusted gross income exceeds the threshold amount.

(2) In the case of credit allowed by subdivision (b) of Section 17054 (relating to joint returns and surviving spouses), the "six dollars ($6)" referred to in paragraph (1) shall be applied by substituting "twelve dollars ($12)."

(3) In the case of a married individual filing a separate return, the "two thousand five hundred dollars ($2,500)" referred to in paragraph (1) shall be applied by substituting "one thousand two hundred fifty dollars ($1,250)."

(4) Under no circumstances shall any credit reduced by paragraph (1) be reduced below zero.

(b) For purposes of this section, "threshold amount" means the following:

(1) Two hundred thousand dollars ($200,000) in the case of a joint return or a surviving spouse, as defined by Section 17046.

(2) One hundred fifty thousand dollars ($150,000) in the case of a head of a household, as defined by Section 17042.

(3) One hundred thousand dollars ($100,000) in the case of an individual who is not married and who is not a surviving spouse or head of a household.

(4) One hundred thousand dollars ($100,000) in the case of a married individual filing a separate return.

(c) This section shall apply to the following credits:

(1) Each of the credits allowed by Section 17054.

(2) The credit allowed by Section 17054.6.

(d) In the case of a taxpayer filing a nonresident or part-year resident return, the reduction of exemption credits, as provided by this section, shall be applicable prior to proration of those credits as provided by Section 17055.

(e) For purposes of this section, marital status shall be determined under Section 17021.5.

(f) For taxable years beginning on or after January 1, 1992, the threshold amounts specified in subdivision (b) shall be recomputed annually in the same manner as the recomputation of income tax brackets under subdivision (h) of Section 17041.

(g) This section shall apply to taxable years beginning on or after January 1, 1991.

SEC. 8. Section 17077 of the Revenue and Taxation Code, as added by Chapter 117 of the Statutes of 1991, is amended to read:

17077. The provisions of Section 68 of the Internal Revenue Code, relating to overall limitation on itemized deductions, shall apply with the following modifications:

(a) "Six percent" shall be substituted for "3 percent" in Section 68(a)(1) of the Internal Revenue Code.

(b) For purposes of this section, "applicable amount" means one hundred thousand dollars ($100,000) in the case of a single individual or a married individual making a separate return, one hundred fifty thousand dollars ($150,000) in the case of a head of household, and two hundred thousand dollars ($200,000) in the case of a surviving spouse or a husband and wife making a joint return.

(c) Section 68(b)(2) of the Internal Revenue Code, relating to inflation adjustments, shall not apply. However, for any taxable year beginning on or after January 1, 1992, the applicable amounts specified in subdivision (b) shall be recomputed annually in the same manner as the recomputation of income tax brackets under subdivision (h) of Section 17041.

(d) Section 68(f) of the Internal Revenue Code, relating to termination, shall not apply.

SEC. 9. Section 17276 of the Revenue and Taxation Code, as amended by Chapter 117 of the Statutes of 1991, is amended to read:

17276. Except as provided in Sections 17276.1 and 17276.2, the deduction provided by Section 172 of the Internal Revenue Code, relating to a net operating loss deduction, shall be modified as follows:

(a) (1) Net operating losses attributable to taxable years beginning before January 1, 1987, and beginning on or after January 1, 1997, shall not be allowed.

(2) A net operating loss shall not be carried forward to any taxable year beginning before January 1, 1987.

(b) The provisions of Section 172(b)(2) of the Internal Revenue Code, relating to the amount of carryovers, shall be modified so that 50 percent of the entire amount of the net operating loss for any taxable year shall not be eligible for carryover to any subsequent taxable year.

(c) Net operating loss carrybacks shall not be allowed.

(d) Notwithstanding any provisions of this section, a deduction shall be allowed to a "qualified taxpayer" as provided in Sections 17276.1 and 17276.2.

SEC. 10. Section 17276.3 of the Revenue and Taxation Code, as added by Chapter 117 of the Statutes of 1991, is amended to read:

17276.3. (a) Notwithstanding Sections 17276, 17276.1, and 17276.2, and Section 172 of the Internal Revenue Code, no net operating loss deduction shall be allowed for all taxable years beginning in the 1991 and 1992 calendar years.

(b) For any carryover of a net operating loss for which a deduction is denied by subdivision (a), the carryover period under Section 172 of the Internal Revenue Code shall be extended as follows:

(1) By one year, for losses sustained in taxable years beginning in 1991.

(2) By two years, for losses sustained in taxable years beginning prior to January 1, 1991.

SEC. 11. Section 23701t of the Revenue and Taxation Code is

amended to read:

23701t. (a) A homeowners' association organized and operated to provide for the acquisition, construction, management, maintenance, and care of residential association property if:

(1) Sixty percent or more of the gross income of such organization for the taxable year consists solely of amounts received as membership dues, fees and assessments from tenant-stockholders or owners of residential units, residences or lots;

(2) Ninety percent or more of the expenditures of the organization for the taxable year are expenditures for the acquisition, construction, management, maintenance, and care of association property;

(3) No part of the net earnings inures (other than by providing management, maintenance and care of association property or by a rebate of excess membership dues, fees or assessments) to the benefit of any private shareholder or individual; and

(4) Amounts received as membership dues, fees and assessments not expended for association purposes during the taxable year are transferred to and held in trust to provide for the management, maintenance, and care of association property and common areas.

(b) The term "association property" means—

(1) Property held by the organization,

(2) Property held in common by the members of the organization, and

(3) Property within the organization privately held by the members of the organization.

(c) A homeowners association shall be subject to tax under this part with respect to its "homeowners association taxable income," and such income shall be subject to tax as provided by Chapter 3 (commencing with Section 23501) of this part.

(1) For purposes of this section, the term "homeowners association taxable income" of any organization for any taxable year means an amount equal to the excess over one hundred dollars ($100) (if any) of—

(A) The gross income for the taxable year (excluding any exempt function income), over

(B) The deductions allowed by this part which are directly connected with the production of the gross income (excluding exempt function income).

(2) For purposes of this section, the term "exempt function income" means any amount received as membership fees, dues and assessments from tenant-shareholders or owners of residential units, residences or lots.

(d) The term "homeowners' association" includes a condominium management association, a residential real estate management association, and a cooperative housing corporation.

(e) "Cooperative housing corporation" includes, but is not limited to, a limited-equity housing cooperative, as defined in Section 33007.5 of the Health and Safety Code, organized either as a nonprofit public

benefit corporation pursuant to Part 2 (commencing with Section 5110) of Division 2 of Title 1 of the Corporations Code, or a nonprofit mutual benefit corporation pursuant to Part 3 (commencing with Section 7110) of Division 2 of Title 1 of the Corporations Code.

SEC. 12. Section 24416 of the Revenue and Taxation Code, as amended by Chapter 117 of the Statutes of 1991, is amended to read:

24416. Except as provided in Sections 24416.1 and 24416.2, a net operating loss deduction shall be allowed in computing net income under Section 24341 and shall be determined in accordance with Section 172 of the Internal Revenue Code, except as otherwise provided.

(a) (1) Net operating losses attributable to income years beginning before January 1, 1987, and beginning on or after January 1, 1997, shall not be allowed, except for losses allowed by this section (as amended by Chapter 159 of the Statutes of 1985) and former Section 24417 (as amended by Chapter 158 of the Statutes of 1986).

(2) A net operating loss shall not be carried forward to any income year beginning before January 1, 1987.

(b) The provisions of Section 172(b)(2) of the Internal Revenue Code, relating to the amount of carryovers, shall be modified so that 50 percent of the entire amount of the net operating loss for any income year shall not be eligible for carryover to any subsequent income year.

(c) For any income year in which the taxpayer has in effect a water's edge election under Section 25110, the deduction of a net operating loss carryover shall be denied to the extent that such net operating loss carryover was determined by taking into account the income and factors of an affiliated bank or corporation in a combined report whose income and apportionment factors would not have been taken into account if a water's edge election under Section 25110 had been in effect for the income year in which the loss was incurred.

(d) Net operating loss carrybacks shall not be allowed.

(e) For purposes of corporations whose net income is determined under Chapter 17 (commencing with Section 25101), both of the following shall apply:

(1) The amount of net operating loss incurred in any income year which may be carried forward to another income year.

(2) The amount of any loss carryforward which may be deducted in any income year, shall be determined in accordance with the provisions of Section 25108.

(f) The provisions of Section 172(b)(1)(K) of the Internal Revenue Code, relating to bad debt losses of commercial banks, shall not be applicable.

SEC. 13. Section 24416.2 of the Revenue and Taxation Code is amended to read:

24416.2. The term "qualified taxpayer" as used in Section 24416.1 means either of the following:

(a) A taxpayer engaged in the conduct of a qualified business

within a program area (as defined in Section 7082 of the Government Code).

(1) A net operating loss shall not be a net operating loss carryback for any income year and a net operating loss for any income year beginning on or after the date that the taxpayer becomes a qualified business shall be a net operating loss carryover to each of the 15 income years following the income year of loss.

(2) For purposes of this subdivision:

(A) "Net operating loss" means the loss determined under Section 172 of the Internal Revenue Code, as modified by Section 24416.1, attributable to the business activities of the taxpayer within the program area (as defined in Section 7082 of the Government Code). That attributed loss shall be determined in accordance with the provisions of Article 2 (commencing with Section 25120) of Chapter 17, modified for purposes of this section as follows:

(i) For income years beginning on or after January 1, 1991, and ending on or before December 31, 1996, loss shall be apportioned to the program area by multiplying total loss from the business by a fraction, the numerator of which is the property factor plus the payroll factor, and the denominator of which is two.

(ii) "The program area" shall be substituted for "this state."

(B) A net operating loss carryover shall be a deduction only with respect to income attributed to the business activities of the taxpayer within the program area (as defined in Section 7082 of the Government Code) determined in accordance with the provisions of Article 2 (commencing with Section 25120) of Chapter 17, modified for purposes of this section as follows:

(i) For income years beginning on or after January 1, 1991, and ending on or before December 31, 1996, income shall be apportioned to the program area by multiplying total income from the business by a fraction, the numerator of which is the property factor plus the payroll factor, and the denominator of which is two.

(ii) "The program area" shall be substituted for "this state."

(b) A taxpayer who is engaged in the conduct of a trade or business within an enterprise zone designated pursuant to Section 7073 of the Government Code on or after that designation.

(1) (A) A net operating loss shall not be a net operating loss carryback to any income year and, except as provided in subparagraph (B), a net operating loss for any income year beginning on or after the date that the area in which the taxpayer conducts a trade or business is designated an enterprise zone shall be a net operating loss carryover to each following income year that ends before the expiration or revocation of the designation of the enterprise zone under Section 7073 of the Government Code or to each of 15 income years following the income year of loss, if longer.

(B) In the case of a financial institution to which Section 585, 586, or 593 of the Internal Revenue Code applies, a net operating loss for any income year beginning on or after January 1, 1984, shall be a net operating loss carryover to each of the five income years following

the income year of the loss. Subdivision (b) of Section 24416.1 shall not apply.

(2) For purposes of this subdivision:

(A) "Net operating loss" means the loss determined under Section 172 of the Internal Revenue Code, as modified by Section 24416.1, attributable to the business activities of the taxpayer within the enterprise zone (as defined in Section 7073 of the Government Code). The attributed loss shall be determined in accordance with the provisions of Article 2 (commencing with Section 25120) of Chapter 17, modified for purposes of this section as follows:

(i) For income years beginning on or after January 1, 1991, and ending on or before December 31, 1996, loss shall be apportioned to the enterprise zone by multiplying total loss from the business by a fraction, the numerator of which is the property factor plus the payroll factor, and the denominator of which is two.

(ii) "The enterprise zone" shall be substituted for "this state."

(B) A net operating loss carryover shall be a deduction only with respect to income attributed to the business activities of the taxpayer within the enterprise zone (as defined in Section 7073 of the Government Code) determined in accordance with the provisions of Article 2 (commencing with Section 25120) of Chapter 17, modified for purposes of this section as follows:

(i) For income years beginning on or after January 1, 1991, and ending on or before December 31, 1996, income shall be apportioned to the enterprise zone by multiplying total income from the business by a fraction, the numerator of which is the property factor plus the payroll factor, and the denominator of which is two.

(ii) "The enterprise zone" shall be substituted for "this state."

(c) A taxpayer who qualifies as a "qualified taxpayer" shall, for the income year of the net operating loss and any income year to which that net operating loss may be carried, designate on the return filed for each year the subdivision of this section which applies to that taxpayer with respect to that net operating loss. If the taxpayer is eligible to qualify under more than one subdivision of this section, the designation is to be made after taking into account subdivision (d).

(d) If a taxpayer is eligible to qualify under more than one subdivision of this section as a "qualified taxpayer," with respect to a net operating loss in an income year, the taxpayer shall designate which subdivision of this section is to apply to the taxpayer.

(e) Notwithstanding the provisions of Section 24416, the amount of the loss determined under Section 24416.1 shall be the only net operating loss allowed to be carried over from that income year and the designation under subdivision (c) shall be included in the election under Section 24416.1.

SEC. 14. Section 24416.3 of the Revenue and Taxation Code, as added by Chapter 117 of the Statutes of 1991, is amended to read:

24416.3. (a) Notwithstanding Sections 24416, 24416.1, and 24416.2, and Section 172 of the Internal Revenue Code, no net

operating loss deduction shall be allowed for all income years beginning in the 1991 and 1992 calendar years.

(b) For any carryover of a net operating loss for which a deduction is denied by subdivision (a), the carryover period under Section 172 of the Internal Revenue Code shall be be extended as follows:

(1) By one year, for losses sustained in income years beginning in 1991.

(2) By two years, for losses sustained in income years beginning prior to January 1, 1991.

SEC. 15. Section 25954 of the Revenue and Taxation Code, as amended by Chapter 117 of the Statutes of 1991, is amended to read:

25954. (a) Notwithstanding the provisions of the preceding sections of this article, the addition to the tax with respect to any underpayment of any installment shall not be imposed if the total amount of all payments of estimated tax paid on or before the last date prescribed for the payment of such installment equals or exceeds the amount which would have been required to be paid on or before such date if the estimated tax were whichever of the following is the lesser—

(1) (A) The tax shown on the return of the taxpayer for the preceding income year if a return showing a liability for tax was filed by the taxpayer for the preceding year and such preceding year was a year of 12 months. The tax shown on the return, in the case of the tax imposed by Article 3 (commencing with Section 23181) of Chapter 2, means the amount of tax shown on the return for the income year as prescribed in Section 25553.

(B) In the case of a large corporation, subparagraph (A) shall not apply, except as provided in clauses (i) and (ii).

(i) Subparagraph (A) shall apply for purposes of determining the amount of the first required installment for any income year.

(ii) Any reduction in the first required installment by reason of clause (i) shall be recaptured by increasing the amount of the next required installment by the amount of that reduction.

(C) In the case of a large worldwide corporation, each of the following shall apply:

(i) Subparagraph (A) shall apply, however, except as provided in clause (ii), the amount determined under subparagraph (A) shall not be less than 70 percent of the tax shown on the return for the current income year, or if no return was filed, 70 percent of the tax for that year.

(ii) With respect to the first required installment for any income year, subparagraph (A) shall apply without the limitation specified in clause (i). However, any reduction in the first required installment by reason of this clause shall be recaptured by increasing the amount of the next required installment by the amount of that reduction.

(2) (A) An amount equal to 90 percent of the tax for the income year computed by placing on an annualized basis the taxable income:

(i) For the first three months of the income year, in the case of the installment required to be paid in the fourth month,

(ii) For the first three months or for the first five months of the income year, in the case of the installment required to be paid in the sixth month,

(iii) For the first six months or for the first eight months of the income year in the case of the installment required to be paid in the ninth month, and

(iv) For the first nine months or for the first 11 months of the income year, in the case of the installment required to be paid in the 12th month of the taxable year.

(B) For purposes of this paragraph, the taxable income shall be placed on an annualized basis by—

(i) Multiplying by 12 the taxable income referred to in subparagraph (A), and

(ii) Dividing the resulting amount by the number of months in the income year referred to in subparagraph (A).

"Taxable income" as used in this paragraph means "net income" (as defined by Section 24341) or alternative minimum taxable income (as defined by Section 23455).

(C) In the case of any corporation which is subject to the tax imposed under Section 23731, each of the following shall apply:

(i) Any reference to taxable income shall be treated as including a reference to unrelated business taxable income.

(ii) Clauses (i) and (ii) of subparagraph (A) shall be applied by substituting "two months" for "three months."

(iii) Clause (ii) of subparagraph (A) shall be applied by substituting "four months" for "five months."

(iv) Clause (iii) of subparagraph (A) shall be applied by substituting "seven months" for "eight months."

(v) Clause (iv) of subparagraph (A) shall be applied by substituting "ten months" for "eleven months."

(b) (1) For purposes of this section, the term "large corporation" means any corporation or bank if that corporation or bank (or any predecessor corporation or bank) had taxable income (computed without regard to the deductions allowed by Sections 24416 and 24416.1) of one million dollars ($1,000,000) or more for any income year during the testing period.

(2) For purposes of this subdivision, the term "testing period" means the three income years immediately preceding the income year involved.

(c) (1) For purposes of this section, the term "large worldwide corporation" means any corporation or bank if that corporation or bank (or any predecessor corporation or bank)—(A) had taxable income (computed without regard to the deductions allowed by Sections 24416 and 24416.1) of one million dollars ($1,000,000) or more for any income year during the testing period, and (B) included during the testing period, for purposes of the tax imposed by this part, income and apportionment factors of one or more banks

or corporations which derive all of their income from sources outside the United States which are not subject to the income taxes imposed by Subtitle A of the United States Internal Revenue Code.

(2) For purposes of this subdivision, the term "testing period" means the three income years immediately preceding the income year involved.

SEC. 16. Section 13043 of the Unemployment Insurance Code, as amended by Chapter 117 of the Statutes of 1991, is amended to read:

13043. (a) The amount to be deducted and withheld under this division shall be prescribed pursuant to Section 18806 of the Revenue and Taxation Code when a payment of wages is made to an employee by an employer in any of the following cases:

(1) With respect to a payroll period or other period, any part of which is included in a payroll period or other period with respect to which wages are also paid to the employee by the employer.

(2) Without regard to any payroll period or other period, but on or prior to the expiration of a payroll period or other period with respect to which wages are also paid to the employee by the employer.

(3) With respect to a period beginning in one and ending in another calendar year.

(4) Through an agent, fiduciary, or other person who also has the control, receipt, custody, or disposal of, or pays, the wages payable by another employer to the employee.

(b) For purposes of this section, an employee's remuneration may consist of wages paid for a payroll period and supplemental wages.

Supplemental wages include, but are not limited to, bonus payments, overtime payments, commissions, sales awards, back pay including retroactive wage increases, and reimbursements for nondeductible moving expenses that are paid for the same or different period, or without regard to a particular period.

(c) When any supplemental wages are paid subsequent to the payment of regular wages, the employer may determine the personal income tax to be withheld from supplemental wages paid by (1) using a flat percentage rate pursuant to subdivision (b) of Section 18806 of the Revenue and Taxation Code without allowance for exemptions and credits and without reference to any regular payment of wages, or (2) adding the supplemental wages to the regular wages paid the employee and computing the personal income tax to be withheld on the whole amount (the computed tax minus the tax withheld from the regular wages shall be withheld from the supplemental wages). Where supplemental wages are paid at the same time as regular wages, the personal income tax to be withheld shall be computed on the total of the supplemental and regular wages and shall be determined as if the total of the supplemental wages and the regular wages constituted a single wage payment for the regular payroll period.

SEC. 17. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect.

CHAPTER 475

An act to amend Section 17131.5 of the Revenue and Taxation Code, to amend Section 13028 of the Unemployment Insurance Code, and to amend Section 11021 of the Welfare and Institutions Code, relating to insurance, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 2, 1991 Filed with Secretary of State October 2, 1991.]

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

SECTION 1. Section 17131.5 of the Revenue and Taxation Code is amended to read:

17131.5. For taxable years beginning on or after January 1, 1991, gross income does not include any amounts received by a person owning a life insurance policy (whether in a single sum or otherwise) under any policy of life or endowment insurance or contract supplemental thereto, if the amounts are paid pursuant to Section 10113.1 of the Insurance Code or any policy of life or endowment insurance or contract supplemental thereto, that may provide for the acceleration of life or endowment benefits in advance of the time otherwise payable, upon the occurrence of a catastrophic or life-threatening illness or condition, as may be specified in the policy or contract.

SEC. 2. Section 13028 of the Unemployment Insurance Code is amended to read:

13028. (a) (1) For purposes of this division (and so much of Part 10 (commencing with Section 17001) of Division 2 of the Revenue and Taxation Code as relates to this division) pensions, annuities, and other deferred income, as described in Section 3405 of the Internal Revenue Code, are wages and subject to withholding under this division.

(2) Notwithstanding paragraph (1), amounts excluded from gross income by Section 17131.5 of the Revenue and Taxation Code are not wages and are not subject to withholding under this division.

(b) If an individual makes an election under Section 3405(a) (2) or Section 3405(b) (3) of the Internal Revenue Code not to have tax withheld, that election shall apply to withholding under this division, unless the individual elects, with the consent of the payer, to have those payments subject to withholding under this division. If an individual has not made an election under Section 3405(a) (2) or Section 3405(b) (3) of the Internal Revenue Code, that individual may elect to exclude those payments from withholding under this division. Elections provided in this subdivision shall be made pursuant to regulations of the director.

(c) Where Section 3405 of the Internal Revenue Code provides that tables or other computational procedures shall be prescribed by

the Secretary of the Treasury, for the purposes of this division, any of the following amounts may be withheld, upon election of the payer:

(1) An amount determined by the method prescribed under Section 13020.

(2) A designated dollar amount as requested by the payee.

(3) Ten percent of the amount of federal withholding computed pursuant to Section 3405 of the Internal Revenue Code.

(d) Where the amount of withholding computed pursuant to subdivision (c) is less than ten dollars ($10) per month, the payer shall not be required to withhold that amount.

(e) This section shall not apply to pensions, annuities, and other deferred income of payees with addresses outside this state, as shown on the most current records of the payer.

(f) The department shall, in consultation with the affected payers and payees, issue regulations to implement this section.

Those regulations shall provide for delay (but not beyond July 1, 1987) of the application of this section with respect to any payer or class of payers until such time as the payers are able to comply without undue hardship with the requirements of this section. In that case, no retroactive compliance shall be required.

SEC. 3. Section 11021 of the Welfare and Institutions Code is amended to read:

11021. Notwithstanding any other provision of law, no individual who is an applicant for, or recipient of, aid or assistance under a state plan approved under Title IV, X, XIV, XVI, or XIX of the federal Social Security Act; assistance funded by payments under Title V or XX of the federal Social Security Act; or of benefits under the Supplemental Security Income program established by Title XVI of the federal Social Security Act shall:

(a) Be required as a condition of eligibility for or of continuing to receive that aid, assistance, or benefit, to make an election to receive funds according to Section 10113.1 of the Insurance Code, or to receive funds under an accelerated death benefit under a policy of life insurance.

(b) By reason of failure to make such an election, be denied or suffer a reduction in the amount of aid, assistance, or benefits, unless that individual would thereby exceed federal eligibility limits under Title IV, X, XIV, XVI, or XIX of the federal Social Security Act, assistance funded by payments under Title V or XX of the federal Social Security Act, or of benefits under the Supplemental Security Income program established by Title XVI of the federal Social Security Act.

For purposes of this section, "accelerated death benefit" means any payment made by the life insurer under the terms of a life insurance policy while the insured individual is alive as a result of a recalculation of the insured individual's life expectancy by the life insurer.

SEC. 4. This act is an urgency statute necessary for the

immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to make clarifying and supplemental changes to the law relating to proceeds from insurance, and to clarify a related law regarding certain social services by correcting a technical error, as soon as possible, it is necessary that this act take effect immediately.

CHAPTER 476

An act to amend Sections 17052.17, 17052.18, 23617, and 23617.5 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor October 2, 1991. Filed with Secretary of State October 2, 1991]

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

SECTION 1. Section 17052.17 of the Revenue and Taxation Code is amended to read:

17052.17. (a) For taxable years beginning on or after January 1, 1988, and before January 1, 1995, there shall be allowed as a credit against the "net tax" (as defined by Section 17039) an amount equal to the amount determined in subdivision (b).

(b) (1) The amount of the credit allowed by this section shall be 30 percent of either or both of the following:

(A) The cost paid or incurred by the taxpayer on or after September 23, 1988, for the startup expenses of establishing a child care program or constructing a child care facility in California, to be used primarily by the children of the taxpayer's employees.

(B) The cost paid or incurred by the taxpayer on or after September 23, 1988, for contributions to California child care information and referral services such as those which identify local child care services, offer information describing these resources to employees, and make referrals of employees to child care services where there are vacancies.

In the case of a child care facility established by two or more taxpayers, the credit shall be allowed to each taxpayer if the facility is to be used primarily by the children of the employees of each of the taxpayers.

(2) The amount of the credit allowed by this section shall not exceed fifty thousand dollars ($50,000) for any taxable year.

(c) For purposes of this section, "startup expenses" include, but are not limited to, feasibility studies, site preparation, and construction, renovation or acquisition of facilities for purposes of establishing or expanding onsite or nearsite centers by one or more employers.

(d) With the exception of a husband and wife, if two or more taxpayers share in the costs eligible for the credit provided by this section, each taxpayer shall be eligible to receive a tax credit with respect to his, her, or its respective share of the costs paid or incurred. In the case of a husband or wife who files a separate return, the credit may be taken by either or equally divided between them.

(e) (1) In the case where the credit allowed under subdivision (b) exceeds the "net tax," the excess may be carried over to reduce the "net tax" in the following year, and succeeding years if necessary, until the credit has been exhausted.

(2) If the credit carryovers from preceding taxable years allowed under paragraph (1) plus the credit allowed for the taxable year under subdivision (b) would exceed an aggregate total of fifty thousand dollars ($50,000), then the credit allowed to reduce the "net tax" under this section for the taxable year shall be limited to fifty thousand dollars ($50,000) and the amount in excess of the fifty thousand dollar ($50,000) limit may be carried over and applied against the "net tax" in the following year, and succeeding years if necessary, in an amount which, when added to the credit allowed under subdivision (b) for that succeeding taxable year, does not exceed fifty thousand dollars ($50,000).

(f) No deduction shall be allowed as otherwise provided in this part for that portion of expenses paid or incurred for the taxable year which is equal to the amount of the credit allowed under this section attributable to those expenses.

(g) In lieu of claiming the tax credit provided by this section, the taxpayer may elect to take depreciation pursuant to Section 17250. In addition, the taxpayer may take depreciation pursuant to that section for the cost of a facility in excess of the amount of the tax credit claimed under this section.

(h) The basis for any child care facility for which a credit is allowed shall be reduced by the amount of the credit attributable to the facility. The basis adjustment shall be made for the taxable year for which the credit is allowed.

(i) (1) In order to be eligible for the credit allowed under subparagraph (A) of paragraph (1) of subdivision (b), the taxpayer shall submit to the Franchise Tax Board upon request a statement certifying that the costs for which the credit is claimed are incurred with respect to the startup expenses of establishing a child care program or constructing a child care facility in California to be used primarily by the children of the taxpayer's employees and which will be in operation for at least 60 consecutive months after completion.

(2) If the child care center for which a credit is claimed pursuant to this section is disposed of or ceases to operate within 60 months after completion, that portion of the credit claimed which represents the remaining portion of the 60-month period shall be added to the taxpayer's tax liability in the taxable year of that disposition or nonuse.

(j) This section shall remain in effect only until December 1, 1995,

and as of that date is repealed. However, any unused credit may continue to be carried forward, as provided in subdivision (e), until the credit has been exhausted.

SEC. 2. Section 17052.18 of the Revenue and Taxation Code is amended to read:

17052.18. (a) For taxable years beginning on or after January 1, 1988, and before January 1, 1995, there shall be allowed as a credit against the "net tax" (as defined by Section 17039) an amount equal to the amount determined in subdivision (b).

(b) (1) The amount of the credit allowed by this section shall be 50 percent of the cost paid or incurred by the taxpayer on or after September 23, 1988, for contributions to a qualified care plan made on behalf of any dependent of the taxpayer's California employee who is under the age of 15.

(2) The amount of the credit allowed by this section in any taxable year shall not exceed six hundred dollars ($600) for contributions to a full-time qualified care plan or to a part-time qualified care plan made on behalf of the employee's dependents.

(c) For purposes of this section:

(1) "Qualified care plan" includes, but is not limited to, onsite service, center-based service, in-home care or home-provider care, and a dependent care center as defined by Section 21 (b) (2) (D) of the Internal Revenue Code which is a specialized center with respect to short-term illnesses of an employee's dependents, provided the facility is located in this state and is operated under the authority of a license when required by state law.

(2) "Specialized center" means a facility which provides care to mildly ill children and which may do all of the following:

(A) Be staffed by pediatric nurses and day care workers.

(B) Admit children suffering from common childhood ailments (including colds, flu, and chickenpox).

(C) Make special arrangements for well children with minor problems associated with diabetes, asthma, breaks or sprains, and recuperation from surgery.

(D) Separate children according to their illness and symptoms in order to protect them from cross-infection.

(3) "Full-time qualified care plan" means an average of eight or more hours of dependent care per day for at least 42 weeks per year in a qualified care plan.

(4) "Part-time qualified care plan" means an average of two to eight hours of dependent care per day for at least 42 weeks per year in a qualified care plan.

(5) "Contributions" include employer reimbursements to employees for the employee's qualified care plan expenses, or direct payments to child care programs or providers, or both.

(6) The term "employee" includes, for any year, an individual who is an employee within the meaning of Section 401 (c) (1) of the Internal Revenue Code (relating to self-employed individuals).

(d) In the case where an employer makes contributions to a

qualified care plan and also collects fees from parents to support a child care facility owned and operated by the employer, no credit shall be allowed under this section for contributions in the amount, if any, by which the sum of the contributions and fees exceed the total cost of providing care. The Franchise Tax Board may require information about fees collected from parents of children.

(e) In the case where the child care received is of less than 42-week duration, the employer shall claim a prorated portion of the allowable credit. The employer shall prorate the credit using the ratio of the number of weeks of care received divided by 42 weeks.

(f) In the case where the credit allowed by this section exceeds the "net tax," the excess may be carried over to reduce the "net tax" in the following year, and succeeding years if necessary until the credit has been exhausted.

(g) The credit shall not be available to an employer if the care provided on behalf of an employee is provided by an individual who:

(1) Qualifies as a dependent of that employee or that employee's spouse under paragraph (1) of subdivision (d) of Section 17054.

(2) Is (within the meaning of Section 17056) a son, stepson, daughter, or stepdaughter of that employee under the age of 19 at the close of that taxable year.

(h) The contributions to a qualified care plan shall not discriminate in favor of employees who are officers, owners, or highly compensated, or their dependents.

(i) No deduction shall be allowed as otherwise provided in this part for that portion of expenses paid or incurred for the taxable year which is equal to the amount of the credit allowed under this section.

(j) In the case where the credit is taken by an employer for contributions to a qualified care plan which is used at a facility owned by the employer, the basis of that facility shall be reduced by the amount of the credit. The basis adjustment shall be made for the taxable year for which the credit is allowed.

(k) With the exception of a husband and wife, if two or more taxpayers share in the costs eligible for the credit provided by this section, each taxpayer shall be eligible to receive a tax credit with respect to his, her, or its respective share of the costs paid or incurred. In the case of a husband and wife who file a separate return, the credit may be taken by either or equally divided between them.

(*l*) This section shall remain in effect only until December 1, 1995, and as of that date is repealed. However, any unused credit may continue to be carried forward, as provided in subdivision (f), until the credit has been exhausted.

SEC. 3. Section 23617 of the Revenue and Taxation Code is amended to read:

23617. (a) For income years beginning on or after January 1, 1988, and before January 1, 1995, there shall be allowed as a credit against the "tax" (as defined by Section 23036) an amount equal to the amount determined in subdivision (b).

(b) (1) The amount of the credit allowed by this section shall be 30 percent of either or both of the following:

(A) The cost paid or incurred by the taxpayer on or after September 23, 1988, for the startup expenses of establishing a child care program or constructing a child care facility in California, to be used primarily by the children of the taxpayer's employees.

(B) The cost paid or incurred by the taxpayer on or after September 23, 1988, for contributions to California child care information and referral services such as those which identify local child care services, offer information describing these resources to employees, and make referrals of employees to child care services where there are vacancies.

In the case of a child care facility established by two or more taxpayers, the credit shall be allowed if the facility is to be used primarily by the children of the employees of each of the taxpayers.

(2) The amount of the credit allowed by this section shall not exceed fifty thousand dollars ($50,000) for any income year.

(c) For purposes of this section, "startup expenses" include, but are not limited to, feasibility studies, site preparation, and construction, renovation, or acquisition of facilities for purposes of establishing or expanding onsite or nearsite centers by one or more employers.

(d) If two or more taxpayers share in the costs eligible for the credit provided by this section, each taxpayer shall be eligible to receive a tax credit with respect to its respective share of the costs paid or incurred.

(e) (1) In the case where the credit allowed under subdivision (b) for the income year exceeds the "tax," the excess may be carried over to reduce the "tax" in the following year, and succeeding years if necessary, until the credit has been exhausted.

(2) If the credit carryovers from preceding income years allowed under paragraph (1) plus the credit allowed for the income year under subdivision (b) would exceed an aggregate total of fifty thousand dollars ($50,000), then the credit allowed to reduce the "tax" under this section for the income year shall be limited to fifty thousand dollars ($50,000) and the amount in excess of the fifty thousand dollar ($50,000) limit may be carried over and applied against the "tax" in the following year, and succeeding years if necessary, in an amount which, when added to the credit allowed under subdivision (b) for that succeeding income year, does not exceed fifty thousand dollars ($50,000).

(f) No deduction shall be allowed as otherwise provided in this part for that portion of expenses paid or incurred for the income year which is equal to the amount of the credit allowed under this section attributable to those expenses.

(g) In lieu of claiming the tax credit provided by this section, the taxpayer may elect to take depreciation pursuant to Section 24371.5. In addition, the taxpayer may take depreciation pursuant to that section for the cost of a facility in excess of the amount of the tax

credit claimed under this section.

(h) The basis for any child care facility for which a credit is allowed shall be reduced by the amount of the credit attributable to the facility. The basis adjustment shall be made for the taxable year for which the credit is allowed.

(i) (1) In order to be eligible for the credit allowed under subparagraph (A) of paragraph (1) of subdivision (b), the taxpayer shall submit to the Franchise Tax Board upon request a statement certifying that the costs for which the credit is claimed are incurred with respect to the startup expenses of establishing a child care program or constructing a child care facility in California to be used primarily by the children of the taxpayer's employees and which will be in operation for at least 60 consecutive months after completion.

(2) If the child care center for which a credit is claimed pursuant to this section is disposed of or ceases to operate within 60 months after completion, that portion of the credit claimed which represents the remaining portion of the 60-month period shall be added to the taxpayer's tax liability in the income year of that disposition or nonuse.

(j) This section shall remain in effect only until December 1, 1995, and as of that date is repealed. However, any unused credit may continue to be carried forward, as provided in subdivision (e), until the credit has been exhausted.

SEC. 4. Section 23617.5 of the Revenue and Taxation Code is amended to read:

23617.5. (a) For income years beginning on or after January 1, 1988, and before January 1, 1995, there shall be allowed as a credit against the "tax" (as defined by Section 23036) an amount equal to the amount determined in subdivision (b).

(b) (1) The amount of the credit allowed by this section shall be 50 percent of the cost paid or incurred by the taxpayer on or after September 23, 1988, for contributions to a qualified care plan made on behalf of any dependent of the taxpayer's California employee who is under the age of 15.

(2) The amount of the credit allowed by this section in any income year shall not exceed six hundred dollars ($600) for contributions to a full-time qualified care plan or a part-time qualified care plan made on behalf of the employee's dependent.

(c) For purposes of this section:

(1) "Qualified care plan" includes, but is not limited to, onsite service, center-based service, in-home care or home-provider care, and a dependent care center as defined by Section 21(b)(2)(D) of the Internal Revenue Code which is a specialized center with respect to short-term illnesses of an employee's dependents, provided the facility is located in this state and is operated under the authority of a license when required by state law.

(2) "Specialized center" means a facility which provides care to mildly ill children and which may do all of the following:

(A) Be staffed by pediatric nurses and day care workers.

(B) Admit children suffering from common childhood ailments (including colds, flu, and chickenpox).

(C) Make special arrangements for well children with minor problems associated with diabetes, asthma, breaks or sprains, and recuperation from surgery.

(D) Separate children according to their illness and symptoms in order to protect them from cross-infection.

(3) "Full-time qualified care plan" means an average of eight or more hours of dependent care per day for at least 42 weeks per year in a qualified care plan.

(4) "Part-time qualified care plan" means an average of two to eight hours of dependent care per day for at least 42 weeks per year in a qualified care plan.

(5) "Contributions" include employer reimbursements to employees for the employee's qualified care plan expenses, or direct payments to child care programs or providers, or both.

(6) The term "employee" includes, for any year, an individual who is an employee within the meaning of Section 401 (c) (1) of the Internal Revenue Code (relating to self-employed individuals).

(d) In the case where an employer makes contributions to a qualified care plan and also collects fees from parents to support a child care facility owned and operated by the employer, no credit shall be allowed under this section for contributions in the amount, if any, by which the sum of the contributions and fees exceed the total cost of providing care. The Franchise Tax Board may require information about fees collected from parents of children served in the facility from taxpayers claiming credits under this section.

(e) In the case where the child care received is of less than 42-week duration, the employer shall claim a prorated portion of the allowable credit. The employer shall prorate the credit using the ratio of the number of weeks of care received divided by 42 weeks.

(f) In the case where the credit allowed under this section exceeds the "tax," the excess may be carried over to reduce the "tax" in the following year, and succeeding years if necessary, until the credit has been exhausted.

(g) The credit shall not be available to an employer if the care provided on behalf of an employee is provided by an individual who:

(1) Qualifies as a dependent of that employee or that employee's spouse under paragraph (1) of subdivision (d) of Section 17054.

(2) Is (within the meaning of Section 17056) a son, stepson, daughter, or stepdaughter of that employee under the age of 19 at the close of that taxable year.

(h) The contributions to a qualified care plan shall not discriminate in favor of employees who are officers, owners, or highly compensated, or their dependents.

(i) No deduction shall be allowed as otherwise provided in this part for that portion of expenses paid or incurred for the income year which is equal to the amount of the credit allowed under this section.

(j) In the case where the credit is taken by an employer for

contributions to a qualified care plan which is used at a facility owned by the employer, the basis of that facility shall be reduced by the amount of the credit. The basis adjustment shall be made for the income year for which the credit is allowed.

(k) If two or more taxpayers share in the costs eligible for the credit provided by this section, each taxpayer shall be eligible to receive a tax credit with respect to its respective share of the costs paid or incurred.

(*l*) This section shall remain in effect only until December 1, 1995, and as of that date is repealed. However, any unused credit may continue to be carried forward, as provided in subdivision (f), until the credit has been exhausted.

SEC. 5. The Child Development Programs Advisory Committee established pursuant to Section 8286 of the Education Code shall coordinate outreach efforts to inform employers about the availability of the child care tax credits provided by this act.

SEC. 6. This act provides for a tax levy within the meaning of Article IV of the California Constitution and shall go into immediate effect. However, unless otherwise specifically provided, the provisions of this act shall be applied in the computation of taxes for taxable or income years beginning on or after January 1, 1991.

CHAPTER 477

An act to amend Sections 18504, 18512, 18513, 18525, 18545, and 18765 of the Revenue and Taxation Code, relating to taxation, and making an appropriation therefor.

[Approved by Governor October 2, 1991 Filed with Secretary of State October 2, 1991.]

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

SECTION 1. Section 18504 of the Revenue and Taxation Code is amended to read:

18504. (a) This article shall remain in effect only until January 1, 1997, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1997, deletes that date, in which event subdivision (b) shall apply.

(b) If the repeal date specified in subdivision (a) has been deleted and if, thereafter, in any calendar year the Franchise Tax Board estimates by September 1 that contributions described in this article made on returns filed in that calendar year will be less than two hundred fifty thousand dollars ($250,000), or the adjusted amount specified in subdivision (c), as may be applicable, then this article is repealed with respect to taxable years beginning on and after January 1 of that calendar year. If necessary, for years after the repeal date in subdivision (a) is deleted, the Franchise Tax Board shall

estimate the annual contribution amount by September 1 of each year using the actual amounts known to be contributed and an estimate of the remaining year's contributions.

(c) For each calendar year, beginning with calendar year 1992, the Franchise Tax Board shall adjust, on or before September 1 of that calendar year, the minimum estimated contribution amount specified in subdivision (b) as follows:

(1) The minimum estimated contribution amount for the calendar year shall be an amount equal to the product of the minimum estimated contribution amount for the prior September 1 multiplied by the inflation factor adjustment as specified in paragraph (2) of subdivision (h) of Section 17041, rounded off to the nearest dollar.

(2) The inflation factor adjustment used for the calendar year shall be based on the figures for the percentage change in the California Consumer Price Index received on or before August 1 of the calendar year pursuant to paragraph (1) of subdivision (h) of Section 17041.

(d) Notwithstanding the repeal of this article, any contribution amounts designated pursuant to this article prior to its repeal shall continue to be transferred and disbursed in accordance with this article as in effect immediately prior to that repeal.

SEC. 2. Section 18512 of the Revenue and Taxation Code is amended to read:

18512. (a) All money transferred to the California Fund for Senior Citizens pursuant to Section 18511, upon appropriation by the Legislature, shall be allocated as follows:

(1) To the Franchise Tax Board and the Controller for reimbursement of all costs incurred by the Franchise Tax Board and the Controller in connection with their duties under this article.

(2) To the California Commission on Aging for allocation as follows:

(A) To the California Senior Legislature, in the 1988–89 fiscal year, and each succeeding fiscal year thereafter, the sum of seventy-five thousand dollars ($75,000), or the balance of the fund if less than that amount remains in the fund, for the conduct of sessions of the California Senior Legislature.

(B) The balance, if any, but not to exceed two hundred fifty thousand dollars ($250,000), to the California Senior Legislature for its ongoing activities on behalf of older persons.

Thirty-three thousand dollars ($33,000) of the balance allocated under this subparagraph, or the entire balance allocated under this subparagraph if the balance is less than thirty-three thousand dollars ($33,000), shall be specifically allocated annually for the conduct of elections of members of the California Senior Legislature. That amount may be carried over from fiscal years in which there are no elections and accumulated, in an amount not to exceed sixty-six thousand dollars ($66,000), for use in election years, and any portion of that amount not used in an election year shall be reallocated

pursuant to subparagraph (C).

(C) The balance, if any, to the commission for senior citizen direct service programs through contracts with the Department of Aging and Long-Term Care.

(b) All moneys allocated pursuant to paragraph (2) of subdivision (a) may be carried over from the year in which they were received and encumbered in any following year.

(c) The amount allocated pursuant to subparagraphs (A) and (B) of paragraph (2) of subdivision (a) may be adjusted annually, as determined by the Department of Finance, to reflect changes in salary adjustments, price increases, and travel reimbursement adjustments included for all state agencies in the annual Budget Act.

SEC. 3. Section 18513 of the Revenue and Taxation Code is amended to read:

18513. (a) This article shall remain in effect only until January 1, 1997, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1997, deletes that date, in which event subdivision (b) shall apply.

(b) If the repeal date specified in subdivision (a) has been deleted and if, thereafter, in any calendar year the Franchise Tax Board estimates by September 1 that contributions described in this article made on returns filed in that calendar year will be less than two hundred fifty thousand dollars ($250,000), or the adjusted amount specified in subdivision (c), as may be applicable, then this article is repealed with respect to taxable years beginning on and after January 1 of that calendar year. If necessary, for years after the repeal date in subdivision (a) is deleted, the Franchise Tax Board shall estimate the annual contribution amount by September 1 of each year using the actual amounts known to be contributed and an estimate of the remaining year's contributions.

(c) For each calendar year, beginning with calendar year 1992, the Franchise Tax Board shall adjust, on or before September 1 of that calendar year, the minimum estimated contribution amount specified in subdivision (b) as follows:

(1) The minimum estimated contribution amount for the calendar year shall be an amount equal to the product of the minimum estimated contribution amount for the prior September 1 multiplied by the inflation factor adjustment as specified in paragraph (2) of subdivision (h) of Section 17041, rounded off to the nearest dollar.

(2) The inflation factor adjustment used for the calendar year shall be based on the figures for the percentage change in the California Consumer Price Index received on or before August 1 of the calendar year pursuant to paragraph (1) of subdivision (h) of Section 17041.

(d) Notwithstanding the repeal of this article, any contribution amounts designated pursuant to this article prior to its repeal shall continue to be transferred and disbursed in accordance with this article as in effect immediately prior to that repeal.

SEC. 4. Section 18525 of the Revenue and Taxation Code is amended to read:

18525. (a) This article shall remain in effect only until January 1, 1997, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1997, deletes that date, in which event subdivision (b) shall apply.

(b) If the repeal date specified in subdivision (a) has been deleted and if, thereafter, in any calendar year the Franchise Tax Board estimates by September 1 that contributions described in this article made on returns filed in that calendar year will be less than two hundred fifty thousand dollars ($250,000), or the adjusted amount specified in subdivision (c), as may be applicable, then this article is repealed with respect to taxable years beginning on and after January 1 of that calendar year. If necessary, for years after the repeal date in subdivision (a) is deleted, the Franchise Tax Board shall estimate the annual contribution amount by September 1 of each year using the actual amounts known to be contributed and an estimate of the remaining year's contributions.

(c) For each calendar year, beginning with calendar year 1992, the Franchise Tax Board shall adjust, on or before September 1 of that calendar year, the minimum estimated contribution amount specified in subdivision (b) as follows:

(1) The minimum estimated contribution amount for the calendar year shall be an amount equal to the product of the minimum estimated contribution amount for the prior September 1 multiplied by the inflation factor adjustment as specified in paragraph (2) of subdivision (h) of Section 17041, rounded off to the nearest dollar.

(2) The inflation factor adjustment used for the calendar year shall be based on the figures for the percentage change in the California Consumer Price Index received on or before August 1 of the calendar year pursuant to paragraph (1) of subdivision (h) of Section 17041.

(d) Notwithstanding the repeal of this article, any contribution amounts designated pursuant to this article prior to its repeal shall continue to be transferred and disbursed in accordance with this article as in effect immediately prior to that repeal.

SEC. 5. Section 18545 of the Revenue and Taxation Code is amended to read:

18545. (a) This article shall remain in effect only until January 1, 1997, and as of that date, is repealed unless a later enacted statute, which is enacted before January 1, 1997, deletes that date, in which event subdivision (b) shall apply.

(b) If the repeal date specified in subdivision (a) has been deleted and if, thereafter, in any calendar year the Franchise Tax Board estimates by September 1 that contributions described in this article made on returns filed in that calendar year will be less than two hundred fifty thousand dollars ($250,000), or the adjusted amount specified in subdivision (c), as may be applicable, then this article is

repealed with respect to taxable years beginning on and after January 1 of that calendar year. If necessary, for years after the repeal date in subdivision (a) is deleted, the Franchise Tax Board shall estimate the annual contribution amount by September 1 of each year using the actual amounts known to be contributed and an estimate of the remaining year's contributions.

(c) For each calendar year, beginning with calendar year 1992, the Franchise Tax Board shall adjust, on or before September 1 of that calendar year, the minimum estimated contribution amount specified in subdivision (b) as follows:

(1) The minimum estimated contribution amount for the calendar year shall be an amount equal to the product of the minimum estimated contribution amount for the prior September 1 multiplied by the inflation factor adjustment as specified in paragraph (2) of subdivision (h) of Section 17041, rounded off to the nearest dollar.

(2) The inflation factor adjustment used for the calendar year shall be based on the figures for the percentage change in the California Consumer Price Index received on or before August 1 of the calendar year pursuant to paragraph (1) of subdivision (h) of Section 17041.

(d) Notwithstanding the repeal of this article, any contribution amounts designated pursuant to this article prior to its repeal shall continue to be transferred and disbursed in accordance with this article as in effect immediately prior to that repeal.

SEC. 6. Section 18765 of the Revenue and Taxation Code is amended to read:

18765. This chapter shall remain in effect only until January 1, 1997, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1997, deletes or extends that date.

CHAPTER 478

An act to amend Sections 18594, 19059, 19062.3, 25667, 26077, and 26080.1 of the Revenue and Taxation Code, relating to taxation.

[Approved by Governor October 2, 1991. Filed with Secretary of State October 2, 1991.]

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

SECTION 1. Section 18594 of the Revenue and Taxation Code is amended to read:

18594. Two copies of the appeal and two copies of any supporting documents shall be addressed and mailed to the State Board of Equalization at Sacramento, California. Upon receipt of the appeal, the board shall provide one copy of the appeal and one copy of any supporting documents to the Franchise Tax Board at Sacramento,

California.

SEC. 2. Section 19059 of the Revenue and Taxation Code is amended to read:

19059. Two copies of the appeal and two copies of any supporting documents shall be addressed and mailed to the State Board of Equalization at Sacramento, California. Upon receipt of the appeal, the board shall provide one copy of the appeal and one copy of any supporting documents to the Franchise Tax Board at Sacramento, California.

SEC. 3. Section 19062.3 of the Revenue and Taxation Code is amended to read:

19062.3. Two copies of the appeal and two copies of any supporting documents shall be addressed and mailed to the State Board of Equalization at Sacramento, California. Upon receipt of the appeal, the board shall provide one copy of the appeal and one copy of any supporting documents to the Franchise Tax Board at Sacramento, California.

SEC. 4. Section 25667 of the Revenue and Taxation Code is amended to read:

25667. Two copies of the appeal and two copies of any supporting documents shall be addressed and mailed to the State Board of Equalization at Sacramento, California. Upon receipt of the appeal, the board shall provide one copy of the appeal and one copy of any supporting documents to the Franchise Tax Board at Sacramento, California. The board shall hear and determine the appeal and forthwith notify the taxpayer and the Franchise Tax Board of its determination and the reasons therefor. The board's determination shall be final upon the expiration of 30 days from the time of the determination unless within the 30-day period the taxpayer or the Franchise Tax Board files a petition for rehearing with the board. In that event the board's determination shall not become final until the expiration of 30 days from the time the board issues its opinion on the petition.

SEC. 5. Section 26077 of the Revenue and Taxation Code is amended to read:

26077. Two copies of the appeal and two copies of any supporting documents shall be addressed and mailed to the State Board of Equalization at Sacramento, California. Upon receipt of the appeal, the board shall provide one copy of the appeal and one copy of any supporting documents to the Franchise Tax Board at Sacramento, California. The board shall hear and determine the appeal and thereafter notify the taxpayer and the Franchise Tax Board of its determination and the reasons therefor. The board's determination shall be final upon the expiration of 30 days from the time of the determination unless the taxpayer or the Franchise Tax Board files a petition for rehearing with the board within the 30-day period. In that event the board's determination shall not become final until the expiration of 30 days from the date the board issues its opinion on the petition.

SEC. 6. Section 26080.1 of the Revenue and Taxation Code is amended to read:

26080.1. (a) If the Franchise Tax Board disallows interest on any claim for refund, it shall notify the taxpayer accordingly. At the expiration of 90 days from the mailing of the notice, the Franchise Tax Board's action upon the disallowance of the interest shall be final unless within such 90-day period, the taxpayer appeals in writing from the action of the Franchise Tax Board to the State Board of Equalization. Two copies of the appeal and two copies of any supporting documents shall be addressed and mailed to the State Board of Equalization at Sacramento, California. Upon receipt of the appeal, the board shall provide one copy of the appeal and one copy of any supporting documents to the Franchise Tax Board at Sacramento, California. The board shall hear and determine the appeal and thereafter notify the taxpayer and the Franchise Tax Board of its determination and the reasons therefor. The determination shall be final upon the expiration of 30 days from the time of the determination unless within the 30-day period the taxpayer or the Franchise Tax Board files a petition for rehearing with the board. In that event, the board's determination shall not become final until the expiration of 30 days from the time the board issues its opinion on the petition.

(b) Within 90 days after the mailing of the notice of the Franchise Tax Board's action disallowing interest upon any refund claim, or in the case of an appeal to the State Board of Equalization from the disallowance of interest on any refund claim, within 90 days after the mailing of the notice of the board's determination of the appeal the taxpayer may bring an action against the Franchise Tax Board on the grounds set forth for interest in the claim for the recovery of the interest.

If the Franchise Tax Board fails to mail notice of action of disallowance of interest on any refund claim within six months after the interest was claimed, the taxpayer may, prior to mailing of notice of action of disallowance of interest on the refund claim, consider the interest disallowed and bring an action against the Franchise Tax Board on the grounds set forth for interest in the claim for the recovery of the interest.

CHAPTER 479

An act to amend Sections 7056, 18433, and 21022 of, and to add Section 18470.1 to, the Revenue and Taxation Code, relating to taxation, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 2, 1991. Filed with Secretary of State October 2, 1991.]

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

SECTION 1. Section 7056 of the Revenue and Taxation Code, as amended by Chapter 236 of the Statutes of 1991, is amended to read:

7056. (a) (1) Excepting the information set forth on permits issued under Article 2 (commencing with Section 6066) of Chapter 2, the information set forth on certificates of registration issued pursuant to Section 6226, and the terms of any settlement made pursuant to Section 7093, it is unlawful for the board, any person having an administrative duty under this part or any person who obtains access to information contained in, or derived from, sales or transactions and use tax records of the board pursuant to subdivision (b), to make known in any manner whatever the business affairs, operations, or any other information pertaining to any retailer or any other person required to report to the board or pay a tax pursuant to this part, or the amount or source of income, profits, losses, expenditures, or any particular thereof, set forth or disclosed in any return, or to permit any return or copy thereof or any book containing any abstract or particulars thereof to be seen or examined by any person.

(2) It is also unlawful for any person, other than an officer or employee of a county, city and county, city, or district, who obtains access to information contained in, or derived from, sales or transactions and use tax records of the board pursuant to subdivision (b), to retain that information after that person's contract with the county, city and county, city, or district has expired.

(3) Notwithstanding paragraphs (1) and (2), the Governor may, by general or special order, authorize examination by other state officers, by tax officers of another state, by the federal government, if a reciprocal arrangement exists, or by any other person of the records maintained by the board under this part. The information so obtained pursuant to the order of the Governor shall not be made public except to the extent and in the manner that the order may authorize that it be made public.

(b) When requested by resolution of the legislative body of any county, city and county, city, or district, the board shall permit any duly authorized officer or employee of the county, city and county, city, or district, or other person designated by that resolution, to examine all of the sales or transactions and use tax records of the

board pertaining to sales or transactions and use taxes collected for the county, city and county, city, or district by the board pursuant to contract entered into between the board and the county, city and county, city, or district under the Bradley-Burns Uniform Local Sales and Use Tax Law (Part 1.5 (commencing with Section 7200)) or the Transactions and Use Tax Law (Part 1.6 (commencing with Section 7251)).

(1) The resolution shall certify that any person designated by the resolution, other than an officer or employee, meets all of the following conditions:

(A) Has an existing contract with the county, city and county, city, or district to examine those sales and use tax records.

(B) Is required by that contract to disclose information contained in, or derived from, those sales or transactions and use tax records only to an officer or employee of the county, city and county, city, or district who is authorized by the resolution to examine the information.

(C) Is prohibited by that contract from performing consulting services for a retailer during the term of that contract.

(D) Is prohibited by that contract from retaining the information contained in, or derived from, those sales or transactions and use tax records, after that contract has expired.

(2) Information obtained by examination of board records as permitted in this subdivision shall be used only for purposes related to the collection of local sales or transactions and use taxes by the board pursuant to the contract, or for purposes related to other governmental functions of the county, city and county, city, or district set forth in the resolution.

(c) If the board believes that any information obtained pursuant to subdivision (b) has been disclosed to any person not authorized or designated by the resolution of the legislative body of the county, city and county, city, or district, or has been used for purposes not permitted by subdivision (b), then notwithstanding subdivision (b), the board may impose conditions on access to its sales and use tax records which the board considers reasonable, in order to protect the confidentiality of those records.

(d) Predecessors, successors, receivers, trustees, executors, administrators, assignees, and guarantors, if directly interested, may be given information as to the items included in the measure and amounts of any unpaid tax or amounts of tax required to be collected, interest, and penalties.

SEC. 2. Section 18433 of the Revenue and Taxation Code is amended to read:

18433. (a) The Franchise Tax Board may grant a reasonable extension of time for filing any return, declaration, statement, or other document required by this part in the manner and form as the Franchise Tax Board may determine. Except for a taxpayer residing or traveling abroad, no extension shall be for more than six months. In the case of a taxpayer residing or traveling abroad, returns shall

be filed no later than the 15th day of the sixth month following the close of the taxable year, unless the requirements for extension have been fulfilled on or before that date.

(b) An extension of time granted pursuant to this section or Section 21022 is not an extension of time for payment of tax required to be paid on or before the due date of the return without regard to extension. Underpayment of tax penalties shall be imposed as provided by law without regard to any extension granted under this section or Section 21022.

(c) A reasonable extension for payment of tax required by this part may be granted by the Franchise Tax Board whenever in its judgment good cause exists.

(d) The amendments to this section made by the act adding this subdivision shall apply to returns required to be filed on or after April 15, 1992.

SEC. 3. Section 18470.1 is added to the Revenue and Taxation Code, to read:

18470.1. (a) The individuals described in Sections 18434 and 18470 shall include those described in Section 7508 of the Internal Revenue Code, as amended by Section 1 of Public Law 102-2.

(b) For purposes of determining interest on overpayments and refunds to which the benefits of Sections 18434 and 18470 apply, Section 7508(b) of the Internal Revenue Code, as amended by Section 1 of Public Law 102-2, shall apply.

(c) Notwithstanding Section 17034, this section shall be operative without regard to taxable years and shall be operative with respect to any actions specified in Sections 18434 and 18470 that are required or permitted to be taken on or after August 2, 1990.

SEC. 4. Section 21022 of the Revenue and Taxation Code is amended to read:

21022. (a) A taxpayer shall be granted an extension of time for filing a return pursuant to Section 18433 if the taxpayer qualified for a federal extension.

(b) An extension of time granted pursuant to this section or Section 18433 is not an extension of time for payment of tax required to be paid on or before the due date of the return without regard to extension. Underpayment of tax penalties shall be imposed as provided by law without regard to any extension granted under this section or Section 18433.

(c) This section shall apply to returns required to be filed on or after April 15, 1992.

SEC. 5. The Legislature finds and declares that Section 3 of this act serves a public purpose as follows:

(a) The operative date of Section 2 is intended to conform to the operative date of Public Law 102-2, approved by the President on January 31, 1991, which is entitled, "An act to extend the time for performing certain acts under the internal revenue laws for individuals performing services as part of the Desert Shield Operation."

(b) The service provided by individuals performing Desert Shield service benefits the entire citizenry of the state.

(c) Failure to conform to the provisions of subsection (d) of Section 1 of Public Law 102-2 may cause undue hardship to individuals performing Desert Shield service.

(d) Failure to conform to the provisions of subsection (d) of Section 1 of Public Law 102-2, which provide that the amendments made by that law shall take effect on August 2, 1990, may result in increased administrative costs to the Franchise Tax Board.

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

In order to ensure that state taxes are properly and fairly imposed and administered as soon as possible, it is necessary that this act take effect immediately.

CHAPTER 480

An act to amend Sections 18504, 18512, 18513, 18514, 18525, 18545, and 18765 of the Revenue and Taxation Code, relating to taxation, and making an appropriation therefor.

[Approved by Governor October 2, 1991. Filed with Secretary of State October 2, 1991.]

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

SECTION 1. Section 18504 of the Revenue and Taxation Code is amended to read:

18504. (a) This article shall remain in effect only until January 1, 1997, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1997, deletes that date, in which event subdivision (b) shall apply.

(b) If the repeal date specified in subdivision (a) has been deleted and if, thereafter, in any calendar year the Franchise Tax Board estimates by September 1 that contributions described in this article made on returns filed in that calendar year will be less than two hundred fifty thousand dollars ($250,000), or the adjusted amount specified in subdivision (c), as may be applicable, then this article is repealed with respect to taxable years beginning on and after January 1 of that calendar year. If necessary, for years after the repeal date in subdivision (a) is deleted, the Franchise Tax Board shall estimate the annual contribution amount by September 1 of each year using the actual amounts known to be contributed and an estimate of the remaining year's contributions.

(c) For each calendar year, beginning with calendar year 1992, the Franchise Tax Board shall adjust, on or before September 1 of

that calendar year, the minimum estimated contribution amount specified in subdivision (b) as follows:

(1) The minimum estimated contribution amount for the calendar year shall be an amount equal to the product of the minimum estimated contribution amount for the prior September 1 multiplied by the inflation factor adjustment as specified in paragraph (2) of subdivision (h) of Section 17041, rounded off to the nearest dollar.

(2) The inflation factor adjustment used for the calendar year shall be based on the figures for the percentage change in the California Consumer Price Index received on or before August 1 of the calendar year pursuant to paragraph (1) of subdivision (h) of Section 17041.

(d) Notwithstanding the repeal of this article, any contribution amounts designated pursuant to this article prior to its repeal shall continue to be transferred and disbursed in accordance with this article as in effect immediately prior to that repeal.

SEC. 2. Section 18512 of the Revenue and Taxation Code is amended to read:

18512. (a) All money transferred to the California Fund for Senior Citizens pursuant to Section 18511, upon appropriation by the Legislature, shall be allocated as follows:

(1) To the Franchise Tax Board and the Controller for reimbursement of all costs incurred by the Franchise Tax Board and the Controller in connection with their duties under this article.

(2) To the California Commission on Aging for allocation as follows:

(A) To the California Senior Legislature, in the 1988–89 fiscal year, and each succeeding fiscal year thereafter, the sum of seventy-five thousand dollars ($75,000), or the balance of the fund if less than that amount remains in the fund, for the conduct of sessions of the California Senior Legislature.

(B) The balance, if any, but not to exceed two hundred fifty thousand dollars ($250,000), to the California Senior Legislature for its ongoing activities on behalf of older persons.

Thirty-three thousand dollars ($33,000) of the balance allocated under this subparagraph, or the entire balance allocated under this subparagraph if the balance is less than thirty-three thousand dollars ($33,000), shall be specifically allocated annually for the conduct of elections of members of the California Senior Legislature. That amount may be carried over from fiscal years in which there are no elections and accumulated, in an amount not to exceed sixty-six thousand dollars ($66,000), for use in election years, and any portion of that amount not used in an election year shall be reallocated pursuant to subparagraph (C).

(C) The balance, if any, to the commission for senior citizen direct service programs through contracts with the Department of Aging and Long-Term Care.

(b) All moneys allocated pursuant to paragraph (2) of subdivision

(a) may be carried over from the year in which they were received and encumbered in any following year.

(c) The amount allocated pursuant to subparagraphs (A) and (B) of paragraph (2) of subdivision (a) may be adjusted annually, as determined by the Department of Finance, to reflect changes in salary adjustments, price increases, and travel reimbursement adjustments included for all state agencies in the annual Budget Act.

SEC. 3. Section 18513 of the Revenue and Taxation Code is amended to read:

18513. (a) This article shall remain in effect only until January 1, 1997, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1997, deletes that date, in which event subdivision (b) shall apply.

(b) If the repeal date specified in subdivision (a) has been deleted and if, thereafter, in any calendar year the Franchise Tax Board estimates by September 1 that contributions described in this article made on returns filed in that calendar year will be less than two hundred fifty thousand dollars ($250,000), or the adjusted amount specified in subdivision (c), as may be applicable, then this article is repealed with respect to taxable years beginning on and after January 1 of that calendar year. If necessary, for years after the repeal date in subdivision (a) is deleted, the Franchise Tax Board shall estimate the annual contribution amount by September 1 of each year using the actual amounts known to be contributed and an estimate of the remaining year's contributions.

(c) For each calendar year, beginning with calendar year 1992, the Franchise Tax Board shall adjust, on or before September 1 of that calendar year, the minimum estimated contribution amount specified in subdivision (b) as follows:

(1) The minimum estimated contribution amount for the calendar year shall be an amount equal to the product of the minimum estimated contribution amount for the prior September 1 multiplied by the inflation factor adjustment as specified in paragraph (2) of subdivision (h) of Section 17041, rounded off to the nearest dollar.

(2) The inflation factor adjustment used for the calendar year shall be based on the figures for the percentage change in the California Consumer Price Index received on or before August 1 of the calendar year pursuant to paragraph (1) of subdivision (h) of Section 17041.

(d) Notwithstanding the repeal of this article, any contribution amounts designated pursuant to this article prior to its repeal shall continue to be transferred and disbursed in accordance with this article as in effect immediately prior to that repeal.

SEC. 4. Section 18514 of the Revenue and Taxation Code is amended to read:

18514. (a) Any taxpayer who is allowed the credit under subdivision (c) of Section 17054 may designate on the tax return that a contribution is being made in an amount not to exceed the amount

of the credit which is to be paid to the California Seniors Special Fund.

(b) The contribution may be made individually by each eligible signatory on the joint return who is allowed the credit under subdivision (c) of Section 17054.

(c) The taxpayer's return shall be treated as if no designation is made under this article if either of the following apply:

(1) Credits reported on the return are insufficient to cover the amount of the contribution.

(2) The payments received from the taxpayer are insufficient to cover the amount of tax owed plus the contribution.

(d) A designation under subdivision (a) shall be made for any taxable year on the initial return for that taxable year, and once made shall be irrevocable.

(e) The Franchise Tax Board shall revise the forms of the return to allow for the designation permitted under subdivision (a).

(f) A deduction shall be allowed under Article 6 (commencing with Section 17201) of Chapter 3 for any contribution made pursuant to subdivision (a).

SEC. 5. Section 18525 of the Revenue and Taxation Code is amended to read:

18525. (a) This article shall remain in effect only until January 1, 1997, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1997, deletes that date, in which event subdivision (b) shall apply.

(b) If the repeal date specified in subdivision (a) has been deleted and if, thereafter, in any calendar year the Franchise Tax Board estimates by September 1 that contributions described in this article made on returns filed in that calendar year will be less than two hundred fifty thousand dollars ($250,000), or the adjusted amount specified in subdivision (c), as may be applicable, then this article is repealed with respect to taxable years beginning on and after January 1 of that calendar year. If necessary, for years after the repeal date in subdivision (a) is deleted, the Franchise Tax Board shall estimate the annual contribution amount by September 1 of each year using the actual amounts known to be contributed and an estimate of the remaining year's contributions.

(c) For each calendar year, beginning with calendar year 1992, the Franchise Tax Board shall adjust, on or before September 1 of that calendar year, the minimum estimated contribution amount specified in subdivision (b) as follows:

(1) The minimum estimated contribution amount for the calendar year shall be an amount equal to the product of the minimum estimated contribution amount for the prior September 1 multiplied by the inflation factor adjustment as specified in paragraph (2) of subdivision (h) of Section 17041, rounded off to the nearest dollar.

(2) The inflation factor adjustment used for the calendar year shall be based on the figures for the percentage change in the

California Consumer Price Index received on or before August 1 of the calendar year pursuant to paragraph (1) of subdivision (h) of Section 17041.

(d) Notwithstanding the repeal of this article, any contribution amounts designated pursuant to this article prior to its repeal shall continue to be transferred and disbursed in accordance with this article as in effect immediately prior to that repeal.

SEC. 6. Section 18545 of the Revenue and Taxation Code is amended to read:

18545. (a) This article shall remain in effect only until January 1, 1997, and as of that date, is repealed unless a later enacted statute, which is enacted before January 1, 1997, deletes that date, in which event subdivision (b) shall apply.

(b) If the repeal date specified in subdivision (a) has been deleted and if, thereafter, in any calendar year the Franchise Tax Board estimates by September 1 that contributions described in this article made on returns filed in that calendar year will be less than two hundred fifty thousand dollars ($250,000), or the adjusted amount specified in subdivision (c), as may be applicable, then this article is repealed with respect to taxable years beginning on and after January 1 of that calendar year. If necessary, for years after the repeal date in subdivision (a) is deleted, the Franchise Tax Board shall estimate the annual contribution amount by September 1 of each year using the actual amounts known to be contributed and an estimate of the remaining year's contributions.

(c) For each calendar year, beginning with calendar year 1992, the Franchise Tax Board shall adjust, on or before September 1 of that calendar year, the minimum estimated contribution amount specified in subdivision (b) as follows:

(1) The minimum estimated contribution amount for the calendar year shall be an amount equal to the product of the minimum estimated contribution amount for the prior September 1 multiplied by the inflation factor adjustment as specified in paragraph (2) of subdivision (h) of Section 17041, rounded off to the nearest dollar.

(2) The inflation factor adjustment used for the calendar year shall be based on the figures for the percentage change in the California Consumer Price Index received on or before August 1 of the calendar year pursuant to paragraph (1) of subdivision (h) of Section 17041.

(d) Notwithstanding the repeal of this article, any contribution amounts designated pursuant to this article prior to its repeal shall continue to be transferred and disbursed in accordance with this article as in effect immediately prior to that repeal.

SEC. 7. Section 18765 of the Revenue and Taxation Code is amended to read:

18765. This chapter shall remain in effect only until January 1, 1997, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1997, deletes or extends that date.

CHAPTER 481

An act to amend Sections 18513 and 18765 of, and to add and repeal Article 6.8 (commencing with Section 18516) of Chapter 17 of Part 10 of Division 2 of, the Revenue and Taxation Code, relating to taxation, and making an appropriation therefor.

[Approved by Governor October 2, 1991. Filed with Secretary of State October 2, 1991.]

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

SECTION 1. The Legislature finds and declares that the state personal income tax check-off for the California Vietnam Veterans Memorial was an effective method to provide funds for its construction and maintenance. It is the intent of the Legislature to provide a similar opportunity for taxpayers to contribute to the construction of a memorial to all veterans, that will be located on the State Capitol grounds. The goal of this act is to raise an estimated two million dollars ($2,000,000) to enable the California Veterans Memorial Commission to construct that memorial.

SEC. 2. Section 18513 of the Revenue and Taxation Code is amended to read:

18513. (a) This article shall remain in effect only until January 1, 1997, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1997, deletes that date, in which event subdivision (b) shall apply.

(b) If the repeal date specified in subdivision (a) has been deleted and if, thereafter, in any calendar year the Franchise Tax Board estimates by September 1 that contributions described in this article made on returns filed in that calendar year will be less than two hundred fifty thousand dollars ($250,000), or the adjusted amount specified in subdivision (c), as may be applicable, then this article is repealed with respect to taxable years beginning on and after January 1 of that calendar year. If necessary, for years after the repeal date in subdivision (a) is deleted, the Franchise Tax Board shall estimate the annual contribution amount by September 1 of each year using the actual amounts known to be contributed and an estimate of the remaining year's contributions.

(c) For each calendar year, beginning with calendar year 1992, the Franchise Tax Board shall adjust, on or before September 1 of that calendar year, the minimum estimated contribution amount specified in subdivision (b) as follows:

(1) The minimum estimated contribution amount for the calendar year shall be an amount equal to the product of the minimum estimated contribution amount for the prior September 1 multiplied by the inflation factor adjustment as specified in paragraph (2) of subdivision (h) of Section 17041, rounded off to the nearest dollar.

(2) The inflation factor adjustment used for the calendar year shall be based on the figures for the percentage change in the California Consumer Price Index received on or before August 1 of the calendar year pursuant to paragraph (1) of subdivision (h) of Section 17041.

(d) Notwithstanding the repeal of this article, any contribution amounts designated pursuant to this article prior to its repeal shall continue to be transferred and disbursed in accordance with this article as in effect immediately prior to that repeal.

SEC. 3. Article 6.8 (commencing with Section 18516) is added to Chapter 17 of Part 10 of Division 2 of the Revenue and Taxation Code, to read:

Article 6.8. Designations for the Veterans Memorial Account

18516. (a) Any taxpayer may designate on the tax return that a contribution in excess of the tax liability, if any, be made to the Veterans Memorial Account in the General Fund, as established pursuant to Section 1316 of the Military and Veterans Code.

(b) The contribution shall be in full dollar amounts and may be made individually by each signatory on the joint return.

(c) A designation under subdivision (a) shall be made for any taxable year beginning on or after January 1, 1991, and before January 1, 1997, on the initial return for that taxable year, and once made shall be irrevocable.

In the event that payments and credits reported on the return, together with any other credits associated with the taxpayer's account, do not exceed the tax liability, if any, shown thereupon, the return shall be treated as though no designation had been made.

If the amount designated exceeds the amount actually available for designation, the amount designated shall be adjusted to correspond to the amount actually available for designation.

(d) In the event a taxpayer designates a contribution to more than one account, and the amount available is insufficient to satisfy the total amount designated, the contribution shall be allocated among the designees on a pro rata basis.

(e) The Franchise Tax Board shall revise the forms of the return to include a space labeled the Veterans Memorial Account to allow for the designation permitted under subdivision (a). The forms shall also include in the instructions the information that the contribution may be in the amount of one dollar ($1) or more and that the contribution shall be used to build a memorial to California veterans.

(f) A deduction shall be allowed under Article 6 (commencing with Section 17201) of Chapter 3 for any contribution made pursuant to subdivision (a).

18516.1. The Franchise Tax Board shall determine annually the total amount designated pursuant to this article and shall notify the Controller of that amount.

The Controller shall transfer from the Personal Income Tax Fund

to the Veterans Memorial Account in the General Fund an amount equal to the total amount designated by individuals pursuant to Section 18516 for payment into that account.

18516.2. Notwithstanding Section 13340 of the Government Code, all money transferred to the Veterans Memorial Account in the General Fund pursuant to Section 18516.1 is hereby continuously appropriated, without regard to fiscal years, for allocation as follows:

(a) To the Franchise Tax Board and the Controller for reimbursement of all costs incurred by the Franchise Tax Board and the Controller in connection with their duties under this article.

(b) (1) To the Veterans Memorial Commission established pursuant to Section 1310 of the Military and Veterans Code for use in the construction, maintenance, and operation of a suitable memorial to veterans at the State Capitol, including the amount of one hundred thousand dollars ($100,000) for purposes of repair of the memorial. Any modifications or alterations of, or addition to, the Veterans Memorial shall be performed in accordance with criteria established by the Veterans Memorial Commission.

(2) For purposes of this subdivision, "operation" includes, but is not limited to, developing and publishing informational brochures for the memorial, producing an information film about the memorial, and conducting tours of the memorial.

(c) If moneys in the account exceed the amount required to construct, improve, maintain, or repair a Veterans Memorial, the balance shall be allocated by the Veterans Memorial Commission to be used for the construction, improvement, or repair of other veterans' memorials as designated by that commission.

(d) Any moneys allocated to the Veterans Memorial Commission pursuant to subdivision (c) may be deposited by that commission in a trust account in a private financial institution.

(e) Those moneys identified in subdivision (b) for the purpose of the repair of the Veterans Memorial may be deposited in a separate special account to be disbursed as required by the Director of Veterans Affairs.

18516.3. (a) This article shall remain in effect only until January 1, 1997, and as of that date is repealed, unless a later enacted statute which is enacted before January 1, 1997, deletes that date, in which event subdivision (b) shall apply.

(b) If the repeal date specified in subdivision (a) has been deleted and if, thereafter, in any calendar year the Franchise Tax Board estimates by September 1 that contributions described in this article made on returns filed in that calendar year will be less than two hundred fifty thousand dollars ($250,000), or the adjusted amount specified in subdivision (c), as may be applicable, then this article is repealed with respect to taxable years beginning on and after January 1 of that calendar year. If necessary, for years after the repeal date in subdivision (a) is deleted, the Franchise Tax Board shall estimate the annual contribution amount by September 1 of each year using the actual amounts known to be contributed and an

estimate of the remaining year's contributions.

(c) For each calendar year, beginning with calendar year 1992, the Franchise Tax Board shall adjust, on or before September 1 of that calendar year, the minimum estimated contribution amount specified in subdivision (b) as follows:

(1) The minimum estimated contribution amount for the calendar year shall be an amount equal to the product of the minimum estimated contribution amount for the prior September 1 multiplied by the inflation factor adjustment as specified in paragraph (2) of subdivision (h) of Section 17041, rounded off to the nearest dollar.

(2) The inflation factor adjustment used for the calendar year shall be based on the figures for the percentage change in the California Consumer Price Index received on or before August 1 of the calendar year pursuant to paragraph (1) of subdivision (h) of Section 17041.

(d) Notwithstanding the repeal of this article, any contribution amounts designated pursuant to this article prior to its repeal shall continue to be transferred and disbursed in accordance with this article as in effect immediately prior to that repeal.

SEC. 4. Section 18765 of the Revenue and Taxation Code is amended to read:

18765. This chapter shall remain in effect only until January 1, 1997, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1997, deletes or extends that date.

CHAPTER 482

An act to amend Section 741 of, and to add Section 729.11 to, the Welfare and Institutions Code, relating to juveniles, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 3, 1991. Filed with Secretary of State October 4, 1991.]

I am deleting the $1,500,000 Federal fund appropriation contained in Section 4 of Assembly Bill No. 124

The Budget Act of 1991 appropriates $1 5 million for the Juvenile Offender Substance Abuse Treatment Program. The appropriation in this bill, therefore, is unnecessary

With the above deletion, I hereby approve Assembly Bill No. 124.

PETE WILSON, Governor

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

SECTION 1. The Legislature finds and declares the following:

(a) National and state surveys have determined that over 75 percent of all youthful offenders taken into custody abuse drugs, alcohol, or both, or are in imminent danger of becoming drug or

alcohol dependent.

(b) Inadequate resources exist for county probation departments throughout the state to plan or respond with effective substance abuse intervention strategies for the thousands of youths detained in juvenile halls annually.

(c) Federal or state funds are essential to permit chief probation officers to initiate individual substance abuse assessment profiles that would enable them to refer youth to appropriate community-based or targeted juvenile justice system treatment programs.

(d) Federal or state funds are essential for county juvenile facilities such as camps and ranches to ensure effective substance intervention treatment strategies for incarcerated youth at the local level, rather than allowing substance abuse dependence to be the basis for continued criminality and incarceration.

SEC. 2. Section 729.11 is added to the Welfare and Institutions Code, to read:

729.11. (a) There is hereby established within the Office of Criminal Justice Planning, a demonstration program known as the "Juvenile Offender Substance Abuse Treatment Program." The goal of the demonstration program shall be to provide substance abuse intervention options for the juvenile courts.

(b) The Office of Criminal Justice Planning shall establish a county probation department demonstration project in at least three counties which shall be selected from among those counties submitting applications to the office. The demonstration projects shall be limited to the treatment of delinquent youth who have been assessed to be substance dependent or in imminent danger of substance dependence. Eligible youth will be those over which the juvenile court has retained jurisdiction pursuant to Section 602.

(c) The goals and functions of each demonstration project shall include, but are not limited to, all of the following:

(1) Development of substance assessment screening instruments at each project to be used at intake to classify the juvenile for possible placement in the program.

(2) Intensive in-custody substance abuse programs, including drug and alcohol education, individual and group counseling, family counseling, job training, self-esteem and personal motivation, life skills, and a volunteer mentor support network.

(d) Wards placed in custody shall be assigned to substance intervention team staff trained in program elements based on a reduced caseload.

(e) All wards who complete an in-custody substance abuse program or those placed directly on probation by the courts who require substance abuse intervention shall be transferred to an intensive aftercare or maximum supervision probation caseload. Wards assigned to these intensive caseloads may be required to meet intensive surveillance standards, including antidrug testing, day reporting, frequent contact with the probation officer, frequent contact with a therapist, and participation in designated community

service substance prevention work projects for selected youth.

During this period of supervision, program elements, similar to those provided within juvenile custodial facilities, shall be established in the community for individual probationers, and their families, by designated intervention team staff. The "intervention team staff" shall include a probation officer, a treatment counselor, an educator, and job counselor.

(f) The development of the programs specified in subdivisions (c), (d), and (e) shall be in consultation with the county drug and alcohol administrator to assure appropriate program standards and to assure that the program is not duplicative, and that it is coordinated with California's Drug and Alcohol Abuse Master Plan, as specified in Section 11998.1 of the Health and Safety Code.

(g) The Office of Criminal Justice Planning shall submit a final evaluation of the demonstration projects to the Legislature within six months after the completion of the two-year demonstration project. The selected demonstration projects shall cooperate with the Office of Criminal Justice Planning in the writing of the final evaluation.

(h) The demonstration program shall be a two-year program and is contingent upon the availability and receipt of federal Anti-Drug Abuse Act funding. The first-year funding of the program shall be appropriated from moneys received by the Office of Criminal Justice Planning pursuant to the federal Anti-Drug Abuse Act of 1988 (Public Law 100-690). The second year of funding the program shall be provided by the selected demonstration program projects.

SEC. 3. Section 741 of the Welfare and Institutions Code is amended to read:

741. The juvenile court may, in any case before it in which a petition has been filed as provided in Article 16 (commencing with Section 650), order that the probation officer obtain the services of such psychiatrists, psychologists, physicians and surgeons, dentists, optometrists, audiologists, or other clinical experts as may be required to assist in determining the appropriate treatment of the minor and as may be required in the conduct or implementation of the treatment. Payment for the services shall be a charge against the county.

Whenever diagnosis or treatment pursuant to this section is due to, or related to, drug or alcohol use, the cost thereof shall be considered for the use of funds made available to the county from state or federal sources for the purpose of providing care and treatment for drug- and alcohol-related illness or for drug or alcohol abuse.

SEC. 4. The sum of one million five hundred thousand dollars ($1,500,000) is hereby appropriated from moneys received by the Office of Criminal Justice Planning through the 1991–92 Budget Act from moneys received pursuant to the federal Anti-Drug Abuse Act of 1988 (Public Law 100-690) to fund the first year of demonstration projects pursuant to Section 729.11 of the Welfare and Institutions Code and to defray the costs of the Office of Criminal Justice Planning in evaluating these projects pursuant to that section. The

demonstration projects that are selected shall provide the funding for the second year of this program.

SEC. 5. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to provide urgently needed drug treatment and rehabilitation programs to juvenile offenders and their families, it is necessary that this act take effect at the earliest possible time.

CHAPTER 483

An act to add and repeal Section 273.88 of the Penal Code, relating to domestic violence.

[Approved by Governor October 3, 1991 Filed with Secretary of State October 4, 1991.]

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

SECTION 1. Section 273.88 is added to the Penal Code, to read:

273.88. (a) It is the Legislature's intent that the Office of Criminal Justice Planning conduct a pilot project to collect statistics on domestic violence prosecution from three counties which have established a vertical prosecution program for spousal abusers pursuant to this chapter.

(b) The Office of Criminal Justice Planning shall establish a pilot project, pursuant to this section, to operate in the Counties of Sacramento, Los Angeles, and Humboldt.

(c) Each law enforcement agency in the Counties of Sacramento and Humboldt shall submit to the Office of Criminal Justice Planning, on a quarterly basis, the following information:

(1) Number of domestic violence reports made and written.

(2) Total number of domestic violence felony and misdemeanor arrests.

(3) Number of domestic violence calls which involved a restraining order.

(4) Number of referrals made by law enforcement relating to domestic violence.

(5) Number of domestic violence training programs law enforcement participates in, including, but not limited to, training of domestic violence counselors at local shelters and attendance and participation in Office of Criminal Justice Planning, Department of Justice, and Peace Officer Standards and Training statewide training conferences.

(d) With regard to Los Angeles County, the Los Angeles County Sheriff's Office shall identify three stations that are representative of the county's ethnic and socioeconomic breakdown of the population

and the crime ratio for domestic violence for the purposes of this section. The Los Angeles County Sheriff's Office shall submit to the Office of Criminal Justice Planning, on a quarterly basis, the information outlined in subdivision (c), as obtained with regard to the three stations identified as representative pursuant to this subdivision.

(e) Each district attorney's office or city attorney's office having misdemeanor jurisdiction in the counties specified in subdivision (b) shall submit to the Office of Criminal Justice Planning, on a quarterly basis, the following information:

(1) Number of spousal abuse cases referred to that office for possible filing.

(2) Number of spousal abuse cases filed for felony prosecution.

(3) Number of spousal abuse cases filed for misdemeanor prosecution.

(4) Number of spousal abuse cases sent to diversion.

(5) Number of spousal abuse cases tried which were dismissed and number of defendants acquitted.

(6) Number of spousal abuse cases resulting in conviction.

(7) Number of repeat spousal abuse offenders.

(8) Number of protective order violations where the protective order was the result of a spousal abuse case.

(9) Number of homicides where the victim was a spouse, cohabitant, girlfriend, ex-spouse, ex-cohabitant, or ex-girlfriend.

(10) Number of homicides where the victim had a protective order against the defendant.

(11) Number of referrals by that office to local victim counseling centers, spousal abuse programs, and victim witness assistance programs.

(12) Number of domestic violence training programs in which that office participates, including, but not limited to, training of domestic violence counselors at local shelters and attendance and participation in Office of Criminal Justice Planning, Department of Justice, and Peace Officer Standards and Training statewide training conferences.

(f) The Office of Criminal Justice Planning shall work with the counties specified in subdivision (b) to develop a format to collect the information required pursuant to subdivisions (c) and (d).

(g) The Office of Criminal Justice Planning shall submit a report to the Legislature regarding the accomplishments of the pilot project. The report shall include, but not be limited to, a program evaluation and recommendations on the vertical prosecution program for spousal abusers pursuant to this chapter. The program evaluation shall include specific data on the number of domestic violence reports received and written, number of domestic violence felony and misdemeanor arrests, and prosecutions and convictions for those crimes as measured by the pilot project. The project shall be considered to have met its objectives if the arrest and conviction rate has increased 10 percent in one year. A statewide analysis and

needs assessment shall be part of the report. The report shall be submitted on or before January 1, 1993.

(h) This section shall remain in effect until January 30, 1993, and as of that date is repealed.

SEC. 2. The mandate prescribed by this act shall become operative when financial resources become available to the Office of Criminal Justice Planning.

SEC. 3. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 484

An act to amend Sections 19535, 19605.6, 19605.7, 19605.71, 19605.8, 19606, and 19608.9 of, and to repeal Sections 19535 and 19605.73 of, the Business and Professions Code, relating to horseracing.

[Approved by Governor October 3, 1991. Filed with Secretary of State October 4, 1991.]

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

SECTION 1. Section 19535 of the Business and Professions Code, as amended by Section 1 of Chapter 970 of the Statutes of 1989, is amended to read:

19535. (a) Notwithstanding any other provision of law, at the time the board allocates racing weeks, it shall determine the number of usable stalls that each association or fair shall make available and maintain in order to conduct the racing meeting. The minimum number of stalls may be at the site of the racing meeting or at board-approved offsite locations.

(b) With respect to racing meetings conducted in the northern zone, the association or fair conducting the meeting shall provide all stabling required by the board pursuant to subdivision (a) without cost to participating horsemen. Offsite stabling shall be at a board approved facility or facilities selected by the association or fair, with the agreement of the organization representing horsemen participating at the meeting. If there is a disagreement between the association or fair and the organization representing the majority of

horsemen participating at the meeting with respect to the selection of offsite stabling facilities, the board, at the request of the association or fair or the organization representing the majority of horsemen participating at the meeting, shall promptly determine the board-approved facility or facilities at which offsite stabling shall be made available. The organization representing horsemen participating at the meeting and the association or fair shall mutually agree on the criteria and selection of horses that may use stalls required pursuant to this section. With respect to northern zone thoroughbred meetings only, the association shall also provide, at the option of the horse owner, vanning of participating racehorses from any board-approved offsite stabling facility in the northern zone.

(c) With respect to racing meetings conducted in the central or southern zones, all costs associated with the maintenance of the usable stalls for the racing meeting shall be borne by the association or fair conducting the meeting, and, with respect to usable stalls at an offsite location, the association or fair may be required, by order of the board, to bear the costs of vanning from the offsite location to the racing meeting. However, with respect to any racing association in the central or southern zone that conducted a racing meeting in 1986, if the number of usable stalls made available onsite by a racing association during a racing meeting is less than 95 percent of the number of usable stalls made available onsite by that racing association during its 1986 racing meeting, the racing association shall reimburse the facility providing offsite stabling for the difference in cost between the actual number of usable stalls made available and 95 percent of the usable stalls made available in 1986.

The racing association shall, in addition, reimburse the owner for vanning to the onsite location with respect to those horses stabled at an offsite location necessitated by the failure of a racing association to maintain 95 percent of the usable stalls made available by that racing association during its 1986 racing meeting.

SEC. 2. Section 19535 of the Business and Professions Code, as added by Section 2 of Chapter 970 of the Statutes of 1989, is repealed.

SEC. 3. Section 19605.6 of the Business and Professions Code is amended to read:

19605.6. (a) In addition to satellite wagering facilities authorized pursuant to Sections 19605, 19605.1, and 19605.2, the board, with the approval of the Department of Food and Agriculture, may authorize any county fair, district agricultural association fair, or citrus fruit fair in the County of Kern or Santa Barbara, eligible for an allocation of racing days pursuant to Section 19549, to operate a satellite wagering facility at its fairgrounds even though the fair is not licensed to conduct a racing meeting, and the fair may operate the facilities except for those functions to be performed by an organization described in Section 19608.2. Except as otherwise provided in this section, Sections 19605, 19605.3, 19605.4, 19605.7, 19605.71, 19605.8, 19606, 19606.1, 19606.2, 19606.3, and 19606.4 apply to satellite wagering facilities authorized pursuant to this section. A satellite

wagering facility in the County of Kern or Santa Barbara may receive the audiovisual signal from the northern, central, or southern zone, or from more than one of these zones at the same time.

(b) It is the intent of the Legislature that, prior to extending the termination date in subdivision (d), the Legislature shall find that the multisignal authorized by this section is successful.

(c) It is the intent of the Legislature that the board provide, when feasible, for periods of at least 10 minutes between post times at the satellite wagering facilities operating under this section.

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

SEC. 3.5. Section 19605.6 of the Business and Professions Code is amended to read:

19605.6. (a) In addition to satellite wagering facilities authorized pursuant to Sections 19605, 19605.1, and 19605.2, the board, with the approval of the Department of Food and Agriculture, may authorize any county fair, district agricultural association fair, or citrus fruit fair in the County of Kern or Santa Barbara, eligible for an allocation of racing days pursuant to Section 19549, to operate a satellite wagering facility at its fairgrounds even though the fair is not licensed to conduct a racing meeting, and the fair may operate the facilities except for those functions to be performed by an organization described in Section 19608.2. Except as otherwise provided in this section, Sections 19605, 19605.3, 19605.4, 19605.7, 19605.71, 19605.8, 19606, 19606.1, 19606.3, and 19606.4 apply to satellite wagering facilities authorized pursuant to this section. A satellite wagering facility in the County of Kern, Fresno, Tulare, Santa Barbara, or Ventura, may receive the audiovisual signal from the northern, central, or southern zone, or from more than one of these zones at the same time.

(b) It is the intent of the Legislature that, prior to extending the termination date in subdivision (d), the Legislature shall find that the multisignal authorized by this section is successful.

(c) It is the intent of the Legislature that the board provide, when feasible, for periods of at least 10 minutes between post times at the satellite wagering facilities operating under this section.

(d) This section shall remain in effect only until January 1, 1994, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1994, deletes or extends that date.

SEC. 4. Section 19605.7 of the Business and Professions Code, as amended by Chapter 317 of the Statutes of 1991, is amended to read:

19605.7. The total percentage deducted from wagers at satellite wagering facilities in the northern zone shall be the same as the deductions for wagers at the racetrack where the racing meeting is being conducted and shall be distributed as set forth in this section. Amounts deducted under this section shall be distributed as follows:

(a) For thoroughbred meetings, 2.5 percent of the amount handled by the satellite wagering facility on conventional wagers

and 4 percent on exotic wagers shall be distributed to the state as a license fee, 2 percent retained by the satellite wagering facility as a commission, 2.5 percent or the amount of actual operating expenses, as determined by the board, whichever is less, distributed to an organization described in Section 19608.2, and four-tenths of 1 percent deposited with the official registering agency pursuant to subdivision (a) of Section 19617.2 and shall thereafter be distributed in accordance with subdivisions (b) and (c) of Section 19617.2, and one-tenth of 1 percent distributed to the Equine Research Laboratory, School of Veterinary Medicine, University of California at Davis. It is the intent of the Legislature that the one-tenth of 1 percent of funds distributed to the Equine Research Laboratory shall supplement, and not supplant, other funding sources.

(b) For harness, quarter horse, Appaloosa, Arabian, mixed breed, or fair meetings, 1.5 percent of the amount handled by the satellite wagering facility on conventional wagers and 3 percent on exotic wagers shall be distributed to the state as a license fee, 2 percent retained by the satellite wagering facility as a commission, and the amount of actual operating expenses, as determined by the board, distributed to an organization described in Section 19608.2. In addition, in the case of quarter horses, four-tenths of 1 percent shall be distributed as breeders' awards to breeders of quarter horses pursuant to Section 19617.6; in the case of Appaloosas, four-tenths of 1 percent shall be distributed as breeders' awards to breeders of Appaloosas; in the case of Arabians, four-tenths of 1 percent shall be distributed as breeders' awards to breeders of Arabians; in the case of standardbreds, four-tenths of 1 percent shall be distributed for the California Standardbred Sires Stakes Program pursuant to Section 19619; in the case of thoroughbreds, four-tenths of 1 percent shall be deposited with the official registering agency pursuant to subdivision (a) of Section 19617.2 and shall thereafter be distributed in accordance with subdivisions (b) and (c) of Section 19617.2; and one-tenth of 1 percent shall be distributed to the Equine Research Laboratory, School of Veterinary Medicine, University of California at Davis. It is the intent of the Legislature that the one-tenth of 1 percent of funds distributed to the Equine Research Laboratory shall supplement, and not supplant, other funding sources.

(c) In addition to the distributions specified in subdivision (a) or (b), for thoroughbred and fair meetings only, six-tenths of 1 percent of the total amount handled by each satellite wagering facility shall be allocated to the facility for promotion of that meeting's program. For harness, quarter horse, and mixed breed meetings, 1 percent of the total amount handled by each satellite wagering facility shall be distributed to an organization described in Section 19608.2 for promotion of the program at satellite wagering facilities.

(d) In addition to the distributions specified in subdivisions (a), (b), and (c), for thoroughbred meetings, four-tenths of 1 percent of the total amount handled at each satellite wagering facility shall be allocated to the association providing the racing program to

reimburse it for any costs of offsite stabling and vanning which are required pursuant to Section 19535. The amount of the reimbursement payable to an association for offsite stabling shall not exceed the actual cost to the association of maintaining stalls at its racetrack plus the actual costs incurred by the association to provide vanning and transportation of racehorses from offsite stabling facilities to its racetrack.

(e) In addition to the distributions specified in subdivisions (a), (b), and (c), for fair meetings, four-tenths of 1 percent of the total amount handled at each satellite wagering facility shall be allocated to the organization representing racing fairs to reimburse fairs for the actual cost of providing offsite stabling required by the board pursuant to Section 19535. If fairs contract with associations to provide offsite stabling during fair meetings, the cost incurred by fairs shall not exceed the actual cost to the association of maintaining the stalls or the amount of reimbursement funds made available pursuant to this subdivision, whichever is less. In the event of a disagreement between an association and the organization representing racing fairs or the organization representing the majority of horsemen participating at the meeting with respect to the actual cost of maintaining stalls, the board, at the request of the association or the organization representing racing fairs or the organization representing the majority of horsemen participating at the meeting, shall determine within 60 days the amount of actual costs incurred. For purposes of this subdivision, "actual cost" does not include fixed overhead or administrative expenses which would be incurred by the association in the absence of an agreement to provide offsite stabling during fair meetings.

(f) Any of the promotional funds distributed pursuant to subdivision (c) that are not expended in the year in which they are collected may be expended in the following year. If promotion funds expended in any year exceed the amount collected for that year, the funds expended in the following year shall be reduced by the excess amount.

(g) Any of the stabling and vanning reimbursement funds distributed pursuant to subdivision (d) or (e) that are not expended within 90 days of the end of the meeting at which they are collected shall be reallocated for promotion of the program at satellite wagering facilities, as provided in subdivision (c).

(h) Additionally, for thoroughbred, harness, quarter horse, mixed breed, and fair meetings, thirty-three hundredths of 1 percent of the total amount handled by each satellite wagering facility shall be paid to the city or county in which the satellite wagering facility is located pursuant to Section 19610.3 or 19610.4.

SEC. 4.5. Section 19605.7 of the Business and Professions Code, as amended by Chapter 317 of the Statutes of 1991, is amended to read:

19605.7. The total percentage deducted from wagers at satellite wagering facilities in the northern zone shall be the same as the deductions for wagers at the racetrack where the racing meeting is

being conducted and shall be distributed as set forth in this section. Amounts deducted under this section shall be distributed as follows:

(a) For thoroughbred meetings, 2.5 percent of the amount handled by the satellite wagering facility on conventional wagers and 4 percent on exotic wagers shall be distributed to the racing association for payment to the state as a license fee, 2 percent retained by the satellite wagering facility as a commission, 2.5 percent or the amount of actual operating expenses, as determined by the board, whichever is less, distributed to an organization described in Section 19608.2, and four-tenths of 1 percent deposited with the official registering agency pursuant to subdivision (a) of Section 19617.2 and shall thereafter be distributed in accordance with subdivisions (b) and (c) of Section 19617.2, and one-tenth of 1 percent distributed to the Equine Research Laboratory, School of Veterinary Medicine, University of California at Davis. It is the intent of the Legislature that the one-tenth of 1 percent of funds distributed to the Equine Research Laboratory shall supplement, and not supplant, other funding sources.

(b) For harness, quarter horse, Appaloosa, Arabian, or mixed breed meetings, 1 percent of the amount handled by the satellite wagering facility on conventional wagers and 1 percent on exotic wagers shall be distributed to the racing association for payment to the state as a license fee, for fair meetings, 1.5 percent of the amount handled by the satellite wagering facility on conventional wagers and 3 percent on exotic wagers shall be distributed to the racing association for payment to the state as a license fee, 2 percent retained by the satellite wagering facility as a commission, and 6 percent of the amount handled by the satellite wagering facility or the amount of actual operating expenses, as determined by the board, whichever is less, distributed to an organization described in Section 19608.2. In addition, in the case of quarter horses, four-tenths of 1 percent shall be distributed as breeders' awards to breeders of quarter horses pursuant to Section 19617.6; in the case of Appaloosas, four-tenths of 1 percent shall be distributed as breeders' awards to breeders of Appaloosas; in the case of Arabians, four-tenths of 1 percent shall be distributed as breeders' awards to breeders of Arabians; in the case of standardbreds, four-tenths of 1 percent shall be distributed for the California Standardbred Sires Stakes Program pursuant to Section 19619; in the case of thoroughbreds, four-tenths of 1 percent shall be deposited with the official registering agency pursuant to subdivision (a) of Section 19617.2 and shall thereafter be distributed in accordance with subdivisions (b) and (c) of Section 19617.2; and one-tenth of 1 percent shall be distributed to the Equine Research Laboratory, School of Veterinary Medicine, University of California at Davis. It is the intent of the Legislature that the one-tenth of 1 percent of funds distributed to the Equine Research Laboratory shall supplement, and not supplant, other funding sources.

(c) In addition to the distributions specified in subdivision (a) or

(b), for thoroughbred and fair meetings only, six-tenths of 1 percent of the total amount handled by each satellite wagering facility shall be allocated to the facility for promotion of that meeting's program. For harness, quarter horse, and mixed breed meetings, 1 percent of the total amount handled by each satellite wagering facility shall be distributed to an organization described in Section 19608.2 for promotion of the program at satellite wagering facilities.

(d) In addition to the distributions specified in subdivisions (a), (b), and (c), for thoroughbred meetings, four-tenths of 1 percent of the total amount handled at each satellite wagering facility shall be allocated to the association providing the racing program to reimburse it for any costs of offsite stabling and vanning which are required pursuant to Section 19535. The amount of the reimbursement payable to an association for offsite stabling shall not exceed the actual cost to the association of maintaining stalls at its racetrack plus the actual costs incurred by the association to provide vanning and transportation of racehorses from offsite stabling facilities to its racetrack.

(e) In addition to the distributions specified in subdivisions (a), (b), and (c), for fair meetings, four-tenths of 1 percent of the total amount handled at each satellite wagering facility shall be allocated to the organization representing racing fairs to reimburse fairs for the actual cost of providing offsite stabling required by the board pursuant to Section 19535. If fairs contract with associations to provide offsite stabling during fair meetings, the cost incurred by fairs shall not exceed the actual cost to the association of maintaining the stalls or the amount of reimbursement funds made available pursuant to this subdivision, whichever is less. In the event of a disagreement between an association and the organization representing racing fairs or the organization representing the majority of horsemen participating at the meeting with respect to the actual cost of maintaining stalls, the board, at the request of the association or the organization representing racing fairs or the organization representing the majority of horsemen participating at the meeting, shall determine within 60 days the amount of actual costs incurred. For purposes of this subdivision, "actual cost" does not include fixed overhead or administrative expenses which would be incurred by the association in the absence of an agreement to provide offsite stabling during fair meetings.

(f) Any of the promotional funds distributed pursuant to subdivision (c) that are not expended in the year in which they are collected may be expended in the following year. If promotion funds expended in any year exceed the amount collected for that year, the funds expended in the following year shall be reduced by the excess amount.

(g) Any of the stabling and vanning reimbursement funds distributed pursuant to subdivision (d) or (e) that are not expended within 90 days of the end of the meeting at which they are collected shall be reallocated for promotion of the program at satellite

wagering facilities, as provided in subdivision (c).

(h) Additionally, for thoroughbred, harness, quarter horse, mixed breed, and fair meetings, thirty-three hundredths of 1 percent of the total amount handled by each satellite wagering facility shall be paid to the city or county in which the satellite wagering facility is located pursuant to Section 19610.3 or 19610.4.

(i) Notwithstanding any other provision of law, a racing association is responsible for the payment of the state license fee as required by this section.

SEC. 5. Section 19605.71 of the Business and Professions Code, as amended by Chapter 317 of the Statutes of 1991, is amended to read:

19605.71. The total percentage deducted from wagers at satellite wagering facilities in the central and southern zone shall be the same as the percentage deducted from wagers at the racetrack where the racing meeting is being conducted and shall be distributed as set forth in this section. Amounts deducted by a satellite wagering facility under this section shall be distributed as follows:

(a) For thoroughbred meetings, 2.5 percent of the amount handled by the satellite wagering facility on conventional wagers and 4 percent on exotic wagers shall be distributed to the state as a license fee, 2 percent retained by the satellite wagering facility as a commission, 2.5 percent or the amount of actual operating expenses, as determined by the board, whichever is less, distributed to an organization described in Section 19608.2, and four-tenths of 1 percent deposited with the official registering agency pursuant to subdivision (a) of Section 19617.2 and shall thereafter be distributed in accordance with subdivisions (b) and (c) of Section 19617.2, and one-tenth of 1 percent distributed to the Equine Research Laboratory, School of Veterinary Medicine, University of California at Davis. It is the intent of the Legislature that the one-tenth of 1 percent of funds distributed to the Equine Research Laboratory shall supplement, and not supplant, other funding sources.

(b) For harness, quarter horse, Appaloosa, Arabian, mixed breed, or fair meetings, 1.5 percent of the amount handled by the satellite wagering facility on conventional wagers and 3 percent on exotic wagers shall be distributed to the state as a license fee, 2 percent retained by the satellite wagering facility as a commission, and the amount of actual operating expenses, as determined by the board, distributed to an organization described in Section 19608.2. In addition, in the case of quarter horses, four-tenths of 1 percent shall be distributed as breeders' awards to breeders of quarter horses pursuant to Section 19617.6; in the case of Appaloosas, four-tenths of 1 percent shall be distributed as breeders' awards to breeders of Appaloosas; in the case of Arabians, four-tenths of 1 percent shall be distributed as breeders' awards to breeders of Arabians; in the case of standardbreds, four-tenths of 1 percent shall be distributed for the California Standardbred Sires Stakes Program pursuant to Section 19619; in the case of thoroughbreds, four-tenths of 1 percent shall be deposited with the official registering agency pursuant to subdivision

(a) of Section 19617.2 and shall thereafter be distributed in accordance with subdivisions (b) and (c) of Section 19617.2; and one-tenth of 1 percent shall be distributed to the Equine Research Laboratory, School of Veterinary Medicine, University of California at Davis. It is the intent of the Legislature that the one-tenth of 1 percent of funds distributed to the Equine Research Laboratory shall supplement, and not supplant, other funding sources.

(c) In addition, for thoroughbred meetings and harness, quarter horse, Appaloosa, mixed breed, or fair meetings, 1 percent shall be distributed to an organization described in Section 19608.2 for promotion of the program at satellite wagering facilities. Any of the promotion funds that are not distributed in the year in which they are collected may be distributed in the following year. If promotion funds distributed in any year exceed the amount collected for that year, the funds distributed in the following year shall be reduced by the excess amount. Additionally, thirty-three hundredths of 1 percent of the total amount handled by the satellite wagering facility shall be paid to the city or county in which the satellite wagering facility is located pursuant to Section 19610.3 or 19610.4.

SEC. 5.5. Section 19605.71 of the Business and Professions Code, as amended by Chapter 317 of the Statutes of 1991, is amended to read:

19605.71. The total percentage deducted from wagers at satellite wagering facilities in the central and southern zone shall be the same as the percentage deducted from wagers at the racetrack where the racing meeting is being conducted and shall be distributed as set forth in this section. Amounts deducted by a satellite wagering facility under this section shall be distributed as follows:

(a) For thoroughbred meetings, 2.5 percent of the amount handled by the satellite wagering facility on conventional wagers and 4 percent on exotic wagers shall be distributed to the racing association for payment to the state as a license fee, 2 percent retained by the satellite wagering facility as a commission, 2.5 percent or the amount of actual operating expenses, as determined by the board, whichever is less, distributed to an organization described in Section 19608.2, and four-tenths of 1 percent deposited with the official registering agency pursuant to subdivision (a) of Section 19617.2 and shall thereafter be distributed in accordance with subdivisions (b) and (c) of Section 19617.2, and one-tenth of 1 percent distributed to the Equine Research Laboratory, School of Veterinary Medicine, University of California at Davis. It is the intent of the Legislature that the one-tenth of 1 percent of funds distributed to the Equine Research Laboratory shall supplement, and not supplant, other funding sources.

(b) For harness, quarter horse, Appaloosa, Arabian, or mixed breed meetings, 1 percent of the amount handled by the satellite wagering facility on conventional wagers and 1 percent on exotic wagers shall be distributed to the racing association for payment to the state as a license fee, for fair meetings, 1.5 percent of the amount

handled by the satellite wagering facility on conventional wagers and 3 percent on exotic wagers shall be distributed to the racing association for payment to the state as a license fee, 2 percent retained by the satellite wagering facility as a commission, and 6 percent of the amount handled by the satellite wagering facility or the amount of actual operating expenses, as determined by the board, whichever is less, distributed to an organization described in Section 19608.2. In addition, in the case of quarter horses, four-tenths of 1 percent shall be distributed as breeders' awards to breeders of quarter horses pursuant to Section 19617.6; in the case of Appaloosas, four-tenths of 1 percent shall be distributed as breeders' awards to breeders of Appaloosas; in the case of Arabians, four-tenths of 1 percent shall be distributed as breeders' awards to breeders of Arabians; in the case of standardbreds, four-tenths of 1 percent shall be distributed for the California Standardbred Sires Stakes Program pursuant to Section 19619; in the case of thoroughbreds, four-tenths of 1 percent shall be deposited with the official registering agency pursuant to subdivision (a) of Section 19617.2 and shall thereafter be distributed in accordance with subdivisions (b) and (c) of Section 19617.2; and one-tenth of 1 percent shall be distributed to the Equine Research Laboratory, School of Veterinary Medicine, University of California at Davis. It is the intent of the Legislature that the one-tenth of 1 percent of funds distributed to the Equine Research Laboratory shall supplement, and not supplant, other funding sources.

(c) In addition, for thoroughbred meetings and harness, quarter horse, Appaloosa, mixed breed, or fair meetings, 1 percent shall be distributed to an organization described in Section 19608.2 for promotion of the program at satellite wagering facilities. Any of the promotion funds that are not distributed in the year in which they are collected may be distributed in the following year. If promotion funds distributed in any year exceed the amount collected for that year, the funds distributed in the following year shall be reduced by the excess amount. Additionally, thirty-three hundredths of 1 percent of the total amount handled by the satellite wagering facility shall be paid to the city or county in which the satellite wagering facility is located pursuant to Section 19610.3 or 19610.4.

(d) Notwithstanding any other provision of law, a racing association is responsible for the payment of the state license fee as required by this section.

SEC. 6. Section 19605.73 of the Business and Professions Code is repealed.

SEC. 7. Section 19605.8 of the Business and Professions Code is amended to read:

19605.8. For thoroughbred meetings, the funds remaining after distribution of the amounts set forth in Sections 19605.7 and 19605.71 shall be distributed 50 percent as commissions to the association which conducts the racing meeting and 50 percent as purses to the horsemen participating in the racing meeting.

SEC. 8. Section 19606 of the Business and Professions Code is amended to read:

19606. For harness, quarter horse, Appaloosa, Arabian, mixed breed, and fair meetings, the funds remaining after the distribution of the amounts set forth in Sections 19605.7 and 19605.71 shall be distributed 50 percent as commissions to the association which conducts the racing meeting and 50 percent to the horsemen participating in the racing meeting in the form of purses. However, owners' premiums shall be paid from the amount distributed for purses in the same relative percentage as owners' premiums are paid at the racing meeting.

SEC. 9. Section 19608.9 of the Business and Professions Code is amended to read:

19608.9. (a) Notwithstanding subdivisions (a) and (b) of Section 19605.7, subdivisions (a) and (b) of Section 19605.71, or any other provision of law, of the amounts deducted from wagers at satellite wagering facilities pursuant to Sections 19605.7 and 19605.71 for thoroughbred meetings or thoroughbred races at mixed breed or fair meetings, four-tenths of 1 percent shall be deposited with the official registering agency for distribution pursuant to subdivision (a) of Section 19617.2, and shall thereafter be distributed in accordance with subdivisions (b) and (c) of Section 19617.2.

(b) Notwithstanding Section 19605.8 or 19606 on thoroughbred meetings or thoroughbred races at mixed breed or fair meetings, the funds remaining after distribution of the amounts set forth in Sections 19605.7 and 19605.71 shall be distributed 50 percent as commissions to the racing association which conducts the racing meeting and 50 percent as purses to the horsemen participating in the racing meeting, but from the purses an amount in the same relative percentage as that set aside pursuant to subdivision (b) of Section 19611.5 and subdivision (c) of Section 19614.2, shall be deposited with the official registering agency pursuant to subdivision (a) of Section 19617.2 and shall, thereafter, be distributed pursuant to subdivisions (b) and (c) of Section 19617.2.

SEC. 10. Section 3.5 of this bill incorporates amendments to Section 19605.6 of the Business and Professions Code proposed by both this bill and SB 944. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1992, (2) each bill amends Section 19605.6 of the Business and Professions Code, and (3) this bill is enacted after SB 944, in which case Section 19605.6 of the Business and Professions Code, as amended by SB 944, shall remain operative only until the operative date of this bill, at which time Section 3.5 of this bill shall become operative, and Section 3 of this bill shall not become operative.

SEC. 11. Section 4.5 of this bill incorporates amendments to Section 19605.7 of the Business and Professions Code proposed by both this bill and SB 944. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1992, (2) each bill amends Section 19605.7 of the Business and Professions

Code, and (3) this bill is enacted after SB 944, in which case Section 19605.7 of the Business and Professions Code, as amended by SB 944, shall remain operative only until the operative date of this bill, at which time Section 4.5 of this bill shall become operative, and Section 4 of this bill shall not become operative.

SEC. 12. Section 5.5 of this bill incorporates amendments to Section 19605.71 of the Business and Professions Code proposed by both this bill and SB 944. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1992, (2) each bill amends Section 19605.71 of the Business and Professions Code, and (3) this bill is enacted after SB 944, in which case Section 19605.71 of the Business and Professions Code, as amended by SB 944, shall remain operative only until the operative date of this bill, at which time Section 5.5 of this bill shall become operative, and Section 5 of this bill shall not become operative.

CHAPTER 485

An act to amend Sections 7925, 8043, 8234, 8688, 9029, 12002.6, and 12002.8 of, and to amend and renumber Section 12002.3 of, the Fish and Game Code, relating to fishing, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 3, 1991. Filed with Secretary of State October 4, 1991]

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

SECTION 1. Section 7925 of the Fish and Game Code is amended to read:

7925. (a) If a vessel is licensed under this article and is used to take salmon or has salmon aboard in ocean waters north of Point Arguello, there shall be on board that vessel, a total number of commercial fishing salmon stamps sufficient to have at least one for the operator and one for each crewmember required by United States Coast Guard regulations, excepting an operator or a crewmember who is exempt from the requirement under subdivision (b) of Section 7860. The commercial fishing salmon stamps shall be affixed to either the commercial fishing licenses of the operator and the crewmembers or, pursuant to subdivision (b), to the commercial passenger fishing license. No person shall operate, or cause to be operated, any vessel licensed under this article in violation of this subdivision. Vessels permitted as commercial salmon fishing vessels pursuant to Section 8234 are exempt from the requirements of this subdivision.

(b) Notwithstanding Section 1053, the department may issue to the owner or operator of a vessel licensed pursuant to this article,

upon application and payment of the fees prescribed in subdivision (c) of Section 7860, one commercial fishing salmon stamp for the operator and not more than one additional commercial salmon stamp for each crewmember required by the United States Coast Guard regulations. The commercial fishing salmon stamps issued under this subdivision shall be affixed to the vessel's commercial passenger fishing boat license issued pursuant to this article.

SEC. 2. Section 8043 of the Fish and Game Code is amended to read:

8043. Every commercial fisherman who sells or delivers fish that he or she has taken to any person who is not licensed under Article 7 (commencing with Section 8030), and every person who is required to be licensed under Article 7 (commencing with Section 8030) to conduct the activities of a fish receiver, as described in Section 8033, shall make a legible record in the form of a landing receipt on forms to be furnished by the department.

The landing receipt shall show all of the following:

(a) The weight of the species of fish received, as designated pursuant to Section 8045. Sablefish may be reported in dressed weight, and if so reported, shall have the round weights computed, for purposes of management quotas, by multiplying 1.6 times the reported dressed weight.

(b) The name of the fisherman.

(c) The department registration number of the boat.

(d) The name of the recipient.

(e) The date of receipt.

(f) The price paid.

(g) The department origin block number where the fish were caught.

(h) The type of gear used.

(i) Any other statistical information as the department may prescribe.

SEC. 3. Section 8234 of the Fish and Game Code is amended to read:

8234. (a) The department shall not issue a permit under this article unless one of the following first occurs:

(1) The applicant presents to the department a commercial fishing salmon stamp issued to the owner or an agent of the owner. No commercial fishing salmon stamp shall be presented or accepted by the department to authorize issuance of a permit under this section for more than one vessel.

(2) The applicant obtains a commercial fishing salmon stamp and pays the fees for the stamp if required by and as provided in subdivision (b) of Section 7852.3 and subdivision (a) of Section 7860.

(3) On or before April 1 of the current license year, the owner is 70 years of age.

(b) The first commercial fishing salmon stamp issued to an owner, or to that owner's agent, shall be affixed to the commercial fishing license of that owner or agent. Any additional commercial fishing

salmon stamps issued to the owner or the owner's agent pursuant to paragraph (1) of subdivision (a) for purposes of obtaining permits for use of additional commercial salmon fishing vessels shall be affixed to each additional vessel's registration issued pursuant to Section 7890.

SEC. 4. Section 8688 of the Fish and Game Code is amended to read:

8688. In Districts 11, 12, and 13, gill nets may be used to take only herring, subject to Article 15 (commencing with Section 8550) of Chapter 2. No gill net may be possessed on any boat in Districts 11, 12, and 13, except by persons possessing a valid permit aboard boats specifically authorized to take herring during the open seasons established by the commission.

SEC. 5. Section 9029 of the Fish and Game Code is amended to read:

9029. (a) Notwithstanding Section 9028, a fishing line which is anchored to the ocean bottom at one end and attached at the surface to a fishing vessel or a buoy may be used in Districts 6, 7, 10, 17, 18, and 19.

(b) A fishing line otherwise permitted pursuant to subdivision (a), may not be used under any of the following circumstances:

(1) To take shortfin mako (bonito) sharks, thresher sharks, swordfish, or marlin.

(2) If the fishing line exceeds 3,000 feet in length from the anchor to the surface vessel or buoy.

(3) If any hooks are attached to the upper one-third of the line.

(c) A buoy attached to the surface end of a fishing line used pursuant to subdivision (a) shall display above its waterline, in numerals at least two inches high, the fisherman's identification number. For purposes of this section and Section 8601.5, "fisherman's identification number" means the number of the person's commercial fishing license issued pursuant to Section 7850.

SEC. 6. Section 12002.3 of the Fish and Game Code, as amended by Chapter 1360 of the Statutes of 1989, is amended and renumbered to read:

12002.4. (a) Notwithstanding Sections 12000, 12001, and 12002, a commercial boat registration may be revoked or suspended by the commission, when requested by the department, for a period not to exceed one year, upon conviction of the registrant, or the registrant's agent, servant, employee, or any other person acting under the registrant's direction or control, for a violation of Section 7121 or the regulations adopted pursuant thereto, if the violation in question involved a vessel licensed pursuant to Section 7920.

(b) Notwithstanding Sections 12000, 12001, and 12002, a commercial boat registration of a vessel licensed pursuant to Section 7920 may be revoked or suspended by the commission, when requested by the department, for a period not to exceed one year, upon conviction of any other person for a violation of Section 7121, if the fish or amphibia involved in the violation were taken from the

vessel and that person committed a prior violation of Section 7121 within three years on the vessel.

(c) The commercial boat registration shall not be revoked under this section for a violation which is unrelated to the vessel for which the commercial boat registration is to be revoked. Any violation committed without the knowledge of the master, or an agent or employee of the registrant, is unrelated to the vessel.

SEC. 7. Section 12002.6 of the Fish and Game Code is amended to read:

12002.6. (a) Notwithstanding Sections 12000, 12001, and 12002, a commercial boat registration may be revoked or suspended by the commission, when requested by the department, for a period not to exceed one year, upon the second conviction in three years of the registrant, or the registrant's agent, servant, employee, or any other person acting under the registrant's direction or control, for a violation of any of the following provisions or regulations adopted pursuant thereto:

(1) Article 2 (commencing with Section 8150), Article 3 (commencing with Section 8180), Article 4 (commencing with Section 8210), Article 5 (commencing with Section 8250), Article 6 (commencing with Section 8275), Article 7 (commencing with Section 8300), Article 9 (commencing with Section 8370), Article 13 (commencing with Section 8495), and Article 15 (commencing with Section 8550) of Chapter 2 of Part 3 of Division 6.

(2) Article 1 (commencing with Section 8601), Article 2 (commencing with Section 8620), Article 4 (commencing with Section 8660), Article 5 (commencing with Section 8685), Article 6 (commencing with Section 8720), Article 7 (commencing with Section 8750), Article 8 (commencing with Section 8780), and Article 10 (commencing with Section 8830) of Chapter 3 of Part 3 of Division 6.

(3) Article 1 (commencing with Section 9000) of Chapter 4 of Part 3 of Division 6.

(b) The commercial boat registration shall not be revoked unless both the first and second convictions are related to the boat for which the commercial boat registration is to be revoked, and are for violations which occurred when the person convicted was the registrant or the registrant's agent, servant, employee, or acting under the registrant's direction or control.

SEC. 8. Section 12002.8 of the Fish and Game Code is amended to read:

12002.8. (a) Notwithstanding Sections 12000, 12001, and 12002, the commercial fishing license of the master of a vessel may be revoked or suspended by the commission, when requested by the department, for a period not to exceed one year, upon the second conviction in three years of the master or the master's agent, servant, employee, or any other person acting under the master's direction or control, for a violation of any of the following provisions or regulations adopted pursuant thereto:

(1) Article 2 (commencing with Section 8150), Article 3 (commencing with Section 8180), Article 4 (commencing with Section 8210), Article 5 (commencing with Section 8250), Article 6 (commencing with Section 8275), Article 7 (commencing with Section 8300), Article 9 (commencing with Section 8370), Article 13 (commencing with Section 8495), and Article 15 (commencing with Section 8550) of Chapter 2 of Part 3 of Division 6.

(2) Article 1 (commencing with Section 8601), Article 2 (commencing with Section 8620), Article 4 (commencing with Section 8660), Article 5 (commencing with Section 8685), Article 6 (commencing with Section 8720), Article 7 (commencing with Section 8750), Article 8 (commencing with Section 8780), and Article 10 (commencing with Section 8830) of Chapter 3 of Part 3 of Division 6.

(3) Article 1 (commencing with Section 9000) of Chapter 4 of Part 3 of Division 6.

(b) A master's license shall not be revoked unless both the first and second convictions are for a violation by the master or a violation occurring when the person convicted was acting as the master's agent, servant, employee, or acting under the master's direction or control.

(c) The master of a vessel is the person on board the vessel who is in charge of the vessel.

SEC. 9. (a) The Legislature finds and declares that commercial salmon fishermen have suffered terrible economic hardships in 1989 and 1990 as a result of four years of drought and highly restrictive federal fishing regulations; those who have suffered the most have been those individuals whose salmon fishery has been limited to the waters of the Klamath Management Zone. The situation in 1991 is expected to worsen. In order to provide some measure of economic relief to these fishermen, it is the policy of the state that those persons not engaging in California's commercial salmon fishery in 1991 or otherwise engaged in its commercial fishery shall be entitled to a refund of any fees paid in 1991 for a commercial fishing salmon stamp.

(b) The Department of Fish and Game shall refund the fee paid for a commercial fishing salmon stamp in 1991 by a person meeting the criteria set forth in subdivision (c).

(c) In order to qualify for the refund provided in subdivision (b), the person shall satisfy all of the following criteria:

(1) He or she held a commercial fishing license in 1990.

(2) In 1990, he or she landed and delivered salmon solely within the area known as the Klamath Management Zone.

(3) In 1991 he or she made no commercial landings and deliveries of salmon within the state.

(d) Applications for the refunds shall be made on such forms, together with such reasonable proof that the applicant satisfies the criteria set forth in subdivision (c) as the department may require. Applications for the refunds shall be made between October 1, 1991,

or the last day of the commercial salmon season, whichever is earlier, and November 30, 1991.

(e) If an application for a refund has been filed pursuant to this section, the commercial fishing salmon stamp shall not be valid for the balance of the term. However, an application for a refund shall not affect the validity of the commercial salmon vessel permit or its renewal for any year subsequent to 1991.

SEC. 10. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to lessen the economic hardships on the commercial salmon fishery and to revise other provisions relating to fishing at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 486

An act to amend Sections 1367.6, 1704.5, 25817, and 25817.1 of, and to add Section 25660.1 to, the Health and Safety Code, and to amend Sections 10123.8 and 11512.10 of the Insurance Code, relating to breast cancer.

[Approved by Governor October 4, 1991. Filed with Secretary of State October 7, 1991.]

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

SECTION 1. Section 1367.6 of the Health and Safety Code is amended to read:

1367.6. Every health care service plan contract which provides for the surgical procedure known as a mastectomy and which is issued, amended, delivered or renewed in this state on or after July 1, 1980, shall include coverage for prosthetic devices or reconstructive surgery to restore and achieve symmetry for the patient incident to the mastectomy. Coverage for prosthetic devices and reconstructive surgery shall be subject to the deductible and coinsurance conditions applied to the mastectomy and all other terms and conditions applicable to other benefits. As used in this section, "mastectomy" means the removal of all or part of the breast for medically necessary reasons, as determined by a licensed physician and surgeon.

Any provision in any contract issued, amended, delivered or renewed in this state on or after July 1, 1980, which is in conflict with this section shall be of no force or effect.

As used in this section, "prosthetic devices" means and includes the provision of initial and subsequent prosthetic devices pursuant to an order of the patient's physician and surgeon.

SEC. 2. Section 1704.5 of the Health and Safety Code is amended to read:

1704.5. The failure of a physician and surgeon to inform a patient by means of a standardized written summary, as developed by the department on the recommendation of the Cancer Advisory Council, in layman's language and in a language understood by the patient of alternative efficacious methods of treatment which may be medically viable, including surgical, radiological, or chemotherapeutic treatments or combinations thereof, when the patient is being treated for any form of breast cancer constitutes unprofessional conduct within the meaning of Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code.

A standardized written summary in layman's language and in a language understood by the patient, to be developed by the department on the recommendation of the Cancer Advisory Council and printed and made available by the Medical Board of California to physicians and surgeons, informing the patient of the advantages, disadvantages, risks and descriptions of the procedures with regard to medically viable and efficacious alternative methods of treatment, which is given to the patient shall constitute compliance with the requirements of this section.

The department shall review the written summary at least once every five years and shall revise the written summary if the department determines that new or revised information should be included in the written summary.

At the next revision of the standardized written summary required by this section, information regarding methods of treatment for breast cancer that are in the investigational or clinical trial stage and are recognized for treatment by the Physician's Data Query of the National Cancer Institute shall be included in the summary. The department shall also provide available reference numbers, including, but not limited to, the "800" telephone numbers for the National Cancer Institute and the American Cancer Society, in order for breast cancer patients to obtain the most recent information.

Prior to performance of a biopsy, the physician and surgeon shall note on the patient's chart that he or she has given the patient the written summary required by this section.

SEC. 3. Section 25660.1 is added to the Health and Safety Code, to read:

25660.1. The Legislature finds and declares that the public health interest requires that increased steps be taken to ensure the accuracy of mammograms, including increased inspections and calibration of equipment, competency requirements for radiologic technologists, accreditation of mammography facilities, and the use of computers to read mammograms.

SEC. 4. Section 25817 of the Health and Safety Code is amended to read:

25817. (a) The department shall provide by regulation a ranking

of priority for inspection, as determined by the degree of potentially damaging exposure of persons by ionizing radiation and the requirements of Section 25817.1, and a schedule of fees, based upon that priority ranking, which shall be paid by persons possessing sources of ionizing radiation which are subject to registration in accordance with subdivision (b) of Section 25815, and regulations adopted pursuant thereto. The revenues derived from the fees shall be used, together with other funds made available therefor, for the purpose of carrying out any inspections of the sources of ionizing radiation required by this chapter or regulations adopted pursuant thereto. The fees shall, together with any other funds made available to the department, be sufficient to cover the costs of administering this chapter, and shall be set in amounts intended to cover the costs of administering this chapter for each priority source of ionizing radiation. Revenues generated by the fees shall not offset any general funds appropriated for the support of the radiologic programs authorized pursuant to Chapter 7.4 (commencing with Section 25660) and Chapter 7.6 (commencing with Section 25800) of this division. Persons who pay fees shall not be required to pay, directly or indirectly, for the share of the costs of administering this chapter of those persons for whom fees are waived.

(b) A local agency participating in a negotiated agreement pursuant to Section 25810 shall be fully reimbursed for direct and indirect costs based upon activities governed by Section 25817.1. With respect to these agreements, any salaries, benefits, and other indirect costs shall not exceed comparable costs of the department. Any changes in the frequency of inspections or the level of reimbursement to local agencies made by this section or Section 25817.1 during the 1985–86 Regular Session shall not affect ongoing contracts.

(c) The fees paid by persons possessing sources of ionizing radiation shall be adjusted annually pursuant to Section 113.

SEC. 5. Section 25817.1 of the Health and Safety Code is amended to read:

25817.1. The average inspection frequency for ionizing radiation machines shall be once each year for mammography X-ray units, once every three years for high priority sources of ionizing radiation, and once every four and one-quarter years for medium-priority sources. Sources of ionizing radiation used in dentistry shall be screened for defects by mail or other offsite methodology not less frequently than once every five years, with physical inspection of the 50 percent, determined by the department to be most in need of inspection, to average at least once every six years.

SEC. 6. Section 10123.8 of the Insurance Code is amended to read:

10123.8. Every group policy of disability insurance or self-insured employee welfare benefit plan which provides for the surgical procedure known as a mastectomy and which is issued, amended, delivered or renewed in this state on or after July 1, 1980, shall

include coverage for prosthetic devices or reconstructive surgery to restore and achieve symmetry for the patient incident to the mastectomy. Coverage for prosthetic devices and reconstructive surgery shall be subject to the deductible and coinsurance conditions applied to the mastectomy, and all other terms and conditions applicable to other benefits. As used in this section, "mastectomy" means the removal of all or part of the breast for medically necessary reasons, as determined by a licensed physician and surgeon.

Any provision in any contract issued, amended, delivered or renewed in this state on or after July 1, 1980, which is in conflict with this section shall be of no force or effect.

As used in this section, "prosthetic devices" means and includes the provision of initial and subsequent prosthetic devices pursuant to an order of the patient's physician and surgeon.

SEC. 7. Section 11512.10 of the Insurance Code is amended to read:

11512.10. Every nonprofit hospital service contract which provides for the surgical procedure known as a mastectomy and which is issued, amended, delivered or renewed in this state on or after July 1, 1980, shall include coverage for prosthetic devices or reconstructive surgery to restore and achieve symmetry for the patient incident to the mastectomy. Coverage for prosthetic devices and reconstructive surgery shall be subject to the deductible and coinsurance conditions applied to the mastectomy, and all other terms and conditions applicable to other benefits. As used in this section, "mastectomy" means the removal of all or part of the breast for medically necessary reasons, as determined by a licensed physician and surgeon.

Any provision in any contract issued, amended, delivered or renewed in this state on or after July 1, 1980, which is in conflict with this section shall be of no force or effect.

SEC. 8. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 487

An act relating to education, and making an appropriation therefor.

[Approved by Governor October 4, 1991. Filed with Secretary of State October 7, 1991.]

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

SECTION 1. The Legislature finds and declares all of the following:

(a) In 1986, in hopes of discovering some possible causes and cures of California's most pressing social concerns, the Governor and the Legislature of California created the California Task Force to Promote Self-Esteem, and Personal and Social Responsibility.

(b) The task force consisted of 25 Californians who were diverse as to sex, age, race, ethnicity, religion, occupation, inclination, demography, and political affiliation and who were all volunteers except four; the Superintendent of Public Instruction, the Secretary of the Health and Welfare Agency, the Secretary of the Youth and Adult Correctional Agency, and the Attorney General.

(c) The task force was charged with three primary missions:

(1) To compile the latest, best knowledge indicating whether self-esteem is a causal factor in any, or in all, of California's six most pressing social concerns: crime and violence, alcohol and other drug abuse, teen pregnancy, child abuse, chronic welfare dependency, and educational failure.

(2) If self-esteem was found to be a causal factor, to compile the latest, best knowledge indicating how healthy self-esteem is developed, how it is hurt or lost, and how it is rehabilitated or regained.

(3) To identify model programs for the development of self-esteem and personal and social responsibility.

(d) During its 40 months of existence, the task force:

(1) Conducted extensive public hearings across California.

(2) Engaged the University of California, its researchers, and the University of California Press in compiling the latest academic research regarding self-esteem and its causal implications.

(3) Convened panels of experts, diverse as to race and gender, from across the United States to further advise the task force regarding the implications of self-esteem.

(4) Reviewed extensive literature on self-esteem and its causal implications.

(e) On January 23, 1990, the task force published its final report entitled "Toward a State of Esteem. The Final Report." The report:

(1) Defined self-esteem as "appreciating my own worth and importance and having the character to be accountable for myself and to act responsibly toward others."

(2) Identified self-esteem as a "social vaccine" that serves to strengthen humans to be less vulnerable to dysfunctional behavior and, therefore, more able and likely to lead responsible lives.

(3) Recommended the development of healthy self-esteem especially in persons in the family, school, workplace, community, and programs for persons in distress.

(4) Provided principles for the development of healthy self-esteem and personal and social responsibility.

(5) Provided particular recommendations for the development of healthy self-esteem and personal and social responsibility in each of those environments.

(6) Identified model programs for the development of healthy self-esteem and personal and social responsibility.

(f) The task force report especially made a comprehensive series of recommendations for the development of healthy self-esteem and personal and social responsibility within our educational systems, including, but not limited to, recommendations to do the following:

(1) Adopt in every school district in California the promotion of self-esteem and personal and social responsibility as a clearly stated goal, integrate self-esteem in its total curriculum, and inform all persons of its policies and operations.

(2) Require coursework in self-esteem for credentials and as a part of ongoing in-service training for all educators.

(3) Weave self-esteem and responsibility into the total educational program.

(4) Educate every educator in self-esteem and responsibility through preservice and in-service training.

(5) Give students opportunities to do community service.

(6) Formulate a real life skills curriculum.

(7) Promote more parental involvement.

(8) Be sensitive to the needs of students at risk of failure.

(9) Use the arts to help develop self-esteem and responsibility.

(10) Expand counseling and peer counseling services for students.

(11) Provide cooperative learning opportunities.

(12) Reduce class size or student to adult ratios.

(13) Implement programs to counteract bigotry and prejudice.

(g) It is incumbent, and valuable, that we now undertake a systematic and comprehensive effort to implement those recommendations in our public education system.

SEC. 2. The Legislature hereby intends to establish a systematic and comprehensive effort to implement the recommendations regarding our public educational system, as set forth in "Toward a State of Esteem," of the California Task Force to Promote Self-Esteem, and Personal and Social Responsibility.

SEC. 3. (a) The Commission on Teacher Credentialing, in conjunction with the Superintendent of Public Instruction and the State Board of Education, shall convene an advisory committee for the purposes of performing an indepth study of "Toward a State of Esteem" and its recommendations and of presenting to the

Legislature proposed strategic plans for implementing the education recommendations of the report.

(b) Each entity shall appoint five members to the advisory committee. The committee shall:

(1) Be diverse as to gender and race.

(2) Be comprised of a majority of credentialed educators.

(3) Each appointing agency shall select at least one member of the California Task Force to Promote Self-Esteem, and Personal and Social Responsibility.

(c) The advisory committee shall serve until January 1, 1993, at which time the advisory committee's existence shall terminate.

SEC. 4. The advisory committee shall:

(a) Make recommendations for the implementation of the report within the jurisdiction of their respective agency.

(b) Address, in particular, the report's primary recommendation that every teacher, prospective and already credentialed, should be experientially educated in the development of his or her own healthy self-esteem.

(c) Seek to incorporate that education and preparation into the regular operations of the respective programs, instead of having them presented as some add-on operations.

(d) Include an analysis of the cost of implementing the plan.

SEC. 5. The advisory committee shall consider the following:

(a) Whether to provide education courses in the nature and development of healthy self-esteem in one's self and in one's students.

(b) How the concept of self-esteem is:

(1) Presented and ascertained in the process of preparing one's self for obtaining the teaching credential.

(2) Effectively undertaken and accomplished during in-service training.

(c) Whether and how to require self-esteem:

(1) In the seeking of a teaching credential.

(2) In the completion of the professional development courses required to maintain one's credential.

(d) Whether to make the concept of self-esteem eligible as a factor, or require it as a course, that serves to qualify a teacher for advancement upon the district teacher salary schedule.

(e) Whether and how to provide training for day care and preschool teachers and staff regarding the strategies and techniques of self-esteem enhancement.

(f) How to develop a self-esteem curriculum appropriate for kindergarten and grades 1 to 12, inclusive, that includes child rearing instruction and that is culturally sensitive and age appropriate.

(g) How to promote responsible citizenship in the coursework.

(h) How to nurture existing local efforts and encourage new efforts to grow.

SEC. 6. The advisory committee shall report to the Legislature, the Commission on Teacher Credentialing, the Superintendent of

Public Instruction, and the State Board of Education by January 1, 1993, regarding the indepth study of the report, "Toward a State of Esteem."

SEC. 7. The Superintendent of Public Instruction and the State Board of Education shall use funds from any existing resources available for their respective use, and not from any funds appropriated pursuant to this act, to accomplish the provisions of this act for which the superintendent or the state board is responsible.

SEC. 8. The sum of forty thousand dollars ($40,000) is hereby appropriated from the Teacher Credentials Fund to the Commission on Teacher Credentialing for the costs of funding the advisory panel and preparing the report required by Section 6 of this act.

CHAPTER 488

An act to amend Sections 1808.1, 2424, and 40000.11 of, to add Sections 12520, 13377, 13378, and 40000.65 to, and to add Article 3.3 (commencing with Section 2430) and Article 3.5 (commencing with Section 2435) to Chapter 2 of Division 2 of, the Vehicle Code, relating to emergency road service.

[Approved by Governor October 4, 1991. Filed with Secretary of State October 7, 1991.]

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

SECTION 1. Section 1808.1 of the Vehicle Code is amended to read:

1808.1. (a) The prospective employer of a driver who drives a vehicle requiring a class 1, class 2, class A, or class B driver's license, class C license with an endorsement issued pursuant to paragraph (4) of subdivision (a) of Section 15278 or a certificate issued pursuant to Section 2512, 12517, 12519, 12520, 12523, or 12523.5, shall obtain a report showing the driver's current public record as recorded by the department.

(b) The employer of a driver who drives a vehicle requiring a class 1, class 2, class A, or class B driver's license, class C license with an endorsement issued pursuant to paragraph (4) of subdivision (a) of Section 15278, or a certificate issued pursuant to Section 2512, 12517, 12519, 12523, or 12523.5, shall make a request to the department to participate in a pull notice system, which is a process for the purpose of providing the employer with a report showing the driver's current public record as recorded by the department, and any subsequent convictions, failures to appear, accidents, driver's license suspensions, driver's license revocations, or any other actions taken against the driving privilege or certificate, added to the driver's record while the employer's notification request remains valid and uncanceled.

(c) The employer of a driver of a vehicle requiring a class 1, class 2, or class 3 driver's license requiring a certificate issued pursuant to Section 2512, 12517, 12519, 12523, or 12523.5 or class A, class B, or class C driver's license with a hazardous material endorsement, shall, additionally, obtain a periodic report from the department at least every six months, except that an employer who employs more than 500 drivers shall obtain a report not less than annually. The employer shall verify that each employee's driver's license has not been suspended or revoked, the employee's traffic violation point count, and whether the employee has been convicted of a violation of Section 23152 or 23153. The report shall be signed and dated by the employer and maintained at the employer's principal place of business. The reports shall be presented upon demand to any authorized representative of the Department of the California Highway Patrol during regular business hours.

(d) Upon the termination of a driver's employment, the employer may notify the department to cancel any reports required by this section.

(e) For the purposes of the pull notice system and periodic report process required by subdivisions (b) and (c), owners, other than owner-operators as defined in Section 3557 of the Public Utilities Code, and employers who drive vehicles described in subdivisions (b) and (c), shall be enrolled as if they were employees. Family members and volunteer drivers who drive vehicles described in subdivisions (b) and (c) shall also be enrolled as if they were employees.

(f) An employer who, after receiving any driving record pursuant to this section, employs or continues to employ as a driver any person against whom a disqualifying action has been taken regarding his or her driving privilege or required driver's certificate, is guilty of a public offense, and upon conviction thereof, shall be punished by imprisonment in the county jail for not more than six months, by a fine of not more than one thousand dollars ($1,000), or by both that fine and imprisonment.

(g) As part of its inspection of bus maintenance facilities and terminals required at least once every 13 months pursuant to subdivision (c) of Section 34501, the Department of the California Highway Patrol shall determine whether each transit operator, as defined in Section 99210 of the Public Utilities Code, is then in compliance with this section and Section 12804.6, and shall certify each operator found to be in compliance. No funds shall be allocated under Chapter 4 (commencing with Section 99200) of Part 11 of Division 10 of the Public Utilities Code to a transit operator which the Department of the California Highway Patrol has not certified under this section.

(h) A request to participate in the pull notice system established by this section shall be accompanied by a fee determined by the department to be sufficient to defray the entire actual cost to the department for the notification service. For the receipt of

subsequent reports, the employer shall also be charged a fee established by the department pursuant to Section 1811. Any employer who qualifies under Section 1812 shall be exempt from any fee required under this section. Failure to pay the fee shall result in automatic cancellation of the employer's participation in the notification services.

(i) The department, as soon as feasible, may establish an automatic procedure to provide the periodic reports in subdivision (c) to employers on a regular basis without the need for individual requests.

(j) This section shall not be construed to change the definition of "employer," "employee," or "independent contractor" for any other purpose.

(k) The employer of a driver who is employed as a casual driver is not required to enter that driver's name in the pull notice system, as otherwise required by subdivision (a). However, the employer of a casual driver shall be in possession of a report of the driver's current public record as recorded by the department, prior to allowing a casual driver to drive a vehicle requiring a class 1, class 2, class A, class B, or class C driver's license with a hazardous materials endorsement, or a certificate issued pursuant to Section 2512, 12517, 12519, 12523, or 12523.5. A report is current if it was issued less than six months prior to the date the employer employs the driver. As used in this subdivision, a driver is employed as a casual driver when the employer has employed the driver less than 30 days during the preceding six months. For purposes of this subdivision, "casual driver" does not include any driver who operates a vehicle that requires a passenger transportation endorsement.

SEC. 2. Section 2424 of the Vehicle Code is amended to read:

2424. (a) The Commissioner of the California Highway Patrol may enter into agreements with providers of towing, emergency road, and storage services for the purpose of determining which providers shall be summoned by the department when those services are necessary for public assistance or to carry out the duties and responsibilities of the department. Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code shall not apply to the agreements. The department shall confer with the towing industry, as necessary, to reach agreements mutually beneficial to the public, the towing industry, and the department.

(b) This section does not prohibit a member of the public from selecting any vehicle towing, emergency road service, or storage provider, except when towing or storage is ordered by a member of the department under the provisions of law.

(c) These agreements shall be implemented in cooperation with representatives of the towing industry, and shall include, but not be limited to, the following subjects: liability insurance requirements, towing, emergency road service, and storage fees, inspection of business and storage facilities and equipment, recordkeeping,

minimum equipment requirements, and the establishment of tow districts.

(d) Failure of a towing, emergency road service, or storage provider to comply with the provisions of the agreement may result in the suspension or termination of the agreement. In the event of suspension or termination of the agreement, and at the request of the towing, emergency road service, or storage provider, the department shall provide a hearing and appeal process to the provider.

(e) Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code does not apply to the hearing and appeal process specified in subdivision (d).

SEC. 3. Article 3.3 (commencing with Section 2430) is added to Chapter 2 of Division 2 of the Vehicle Code, to read:

Article 3.3. Tow Truck Drivers

2430. (a) The Legislature hereby creates a pilot project to develop recommendations for requiring emergency road service organizations and their specified employees, within the state, to be certified and receive specified training in the interest of public safety. The project shall be limited to freeway service patrol operations for major urban areas. The project includes, but is not limited to, the issuance of tow truck driver certificates to employees and employers involved in freeway service patrol operations, criminal history checks for convictions of specified crimes, and training for enhancement of public safety. The purpose of the project shall be to develop recommendations for requiring all emergency road service organizations and specified employees, within the state, to be certified and receive specified training in the interest of public safety.

(b) This project shall be for a period of two years commencing on July 1, 1992. The department shall submit a report to the Legislature not later than September 1, 1994. The report shall include, but not be limited to, all of the following:

(1) The number of criminal history checks processed by the department.

(2) The number of specified tow truck driver certificates issued.

(3) The number of persons rejected for freeway service patrol operations as a result of the criminal history checks.

(4) The names of participating emergency road service organizations.

(5) An accounting of the number of certified persons who were subsequently disqualified for convictions of specified crimes, including the number of certified persons subsequently disqualified for convictions of specified crimes against those receiving service.

(6) The training received by specified personnel.

(7) Recommendations developed by the Emergency Roadside Assistance Advisory Committee regarding training, as specified in

Section 2438, and guidelines for motorist safety, as specified in Section 2439.

(8) Information compiled from reports submitted by highway service organizations pursuant to subdivision (a) of Section 2440.

(9) Recommendations for extending the requirements of this article and Article 3.5 (commencing with Section 2435) to all highway service organizations and their specified employees within the state.

(c) The Legislature declares that it is important to the public safety that tow truck drivers, who perform freeway service patrol operations under agreement with any specified public transportation planning entity, do not have criminal records which include violent crimes against persons.

2430.1. As used in this article and Article 3.5 (commencing with Section 2435):

(a) "Tow truck driver" means a person who operates a tow truck, who renders towing service or emergency road service to motorists while involved in freeway service patrol operations, pursuant to an agreement with a regional or local entity, and who has or will have direct and personal contact with the individuals being transported or assisted. As used in this subdivision, "towing service" and "emergency road service" have the same meaning as defined in Section 2436.

(b) "Employer" means any person or organization which employs those persons defined in subdivision (a), or who is an owner-operator who performs the activity specified in subdivision (a), and who is involved in freeway service patrol operations pursuant to an agreement or contract with a regional or local entity.

(c) "Regional or local entity" means any public organization established as a public transportation planning entity pursuant to Title 7.1 (commencing with Section 66500) of the Government Code or Section 130050 of the Public Utilities Code.

2430.3. Every tow truck driver shall notify each of his or her employers and prospective employers of an arrest or conviction of any crime specified in paragraph (1), (2), (3), or (4) of subdivision (a) of Section 13377 prior to beginning the next workshift for that employer.

2430.5. (a) Every employer intending to hire a tow truck driver on or after July 1, 1992, shall require the applicant for employment to submit to them a temporary tow truck driver certificate issued by the department or a permanent tow truck driver certificate issued by the Department of Motor Vehicles. The employer shall review the certificate and obtain a copy to be maintained as required by subdivision (c). The employer shall not hire any tow truck driver in any freeway service patrol operations who does not provide a temporary tow truck driver certificate issued by the department or a permanent tow truck driver certificate issued by the Department of Motor Vehicles. The employer shall not allow a tow truck driver who is not certified to participate in any freeway service patrol

operations. If the issuance date on the certificate is more than 90 days from the proposed date of hire, the employer shall contact the department to reverify eligibility.

(b) On or after July 1, 1992, every employer, whose currently employed tow truck drivers are required to obtain a tow truck driver certificate pursuant to Sections 2430.7 and 12520, shall require the employees to submit to the employer a temporary tow truck driver certificate issued by the department or a permanent tow truck driver certificate issued by the Department of Motor Vehicles. The employer shall review the certificate and obtain a copy to be maintained as required by subdivision (c).

(c) Every employer shall maintain a tow truck driver certificate file for all tow truck drivers hired on or after July 1, 1992, or all currently employed tow truck drivers who are required to obtain a tow truck driver certificate pursuant to Section 12520. The employer shall retain employee rosters and copies of tow truck driver certificates for all tow truck drivers. The roster shall be comprised of the following two lists:

(1) Drivers who have valid tow truck driver certificates.

(2) Drivers who would be prohibited, pursuant to subdivision (a) of Section 13377, from involvement in any freeway service patrol operation.

Every employer shall make available for inspection by the department at the employer's primary place of business in this state. In addition, the employer shall maintain a personnel roster, also available for inspection, of all current tow truck drivers and their date of hire by the employer.

(d) Upon notification that a tow truck driver has been arrested for, or convicted of, any crime specified in paragraph (1), (2), (3), or (4) of subdivision (a) of Section 13377, the employer shall remove that tow truck driver from any position involving freeway service patrol operations.

(e) A violation of this section by an employer is a misdemeanor.

2431. (a) For the purposes of conducting criminal history and driver history screening of tow truck drivers and employers, the commissioner shall do all of the following:

(1) Utilize the California Law Enforcement Telecommunications System (CLETS) to conduct preliminary criminal history checks.

(2) Obtain fingerprints from tow truck drivers and employers. The fingerprint cards will be submitted to the Department of Justice for criminal history checks.

(3) Obtain a second set of fingerprints from applicants who have not continuously resided in the state for the previous seven years, and submit that card to the Federal Bureau of Investigation for out-of-state criminal history checks. The department may charge a fee sufficient to cover the additional expense of processing the fingerprint cards through the Federal Bureau of Investigation.

(4) Verify that the tow truck driver or employer, or both, have a valid California driver's license, through the use of the automated

records system.

(b) On and after July 1, 1992, all tow truck drivers shall submit an application for the issuance of a tow truck driver certificate with the department and pay an application fee of fifty dollars ($50). Applicants for the renewal of an expired tow truck driver certificate shall submit an application for issuance of a new tow truck driver certificate to the Department of Motor Vehicles and pay an application fee of twelve dollars ($12).

All fees collected pursuant to this section shall be deposited in the Motor Vehicle Account in the State Transportation Fund. An amount equal to the fees paid shall be made available, upon appropriation, to the Department of Motor Vehicles for its administrative costs, for the cost of criminal history checks to be conducted by the Department of Justice, and to the department for its administrative costs. In no case shall the fees collected exceed the costs of administering this section.

(c) Applicants for an original tow truck driver certificate shall be fingerprinted by the department, on a form issued by the department, for submission to the Department of Justice for the purpose of determining whether the applicant has been convicted for a violation of any crime specified in paragraph (1), (2), (3), or (4) of subdivision (a) of Section 13377.

(d) Information released to the department or the Department of Motor Vehicles shall be related to their inquiry and shall remain confidential.

(e) The department shall issue a temporary tow truck driver certificate, provided by the Department of Motor Vehicles, to applicants who have cleared the specified criminal history check through CLETS and the driver history check through the automated records system, and who meet all other applicable provisions of this code. The term of the temporary tow truck driver's certificate shall be for a period of 90 days from the date of issuance.

2432. (a) It is unlawful for a tow truck driver to knowingly provide false information on the application prepared and submitted to the department pursuant to subdivision (b) of Section 2430.7.

(b) It is unlawful for a tow truck driver to fail to comply with the notification requirements in Section 2430.3.

(c) A violation of this section is punishable as a misdemeanor.

2432.1. (a) If the commissioner determines that an employer has failed to comply with the requirements of this article or Article 3.5 (commencing with Section 2435), the commissioner may, after a hearing, suspend the highway safety carrier's identification number issued pursuant to Section 2436.3 for a period not to exceed two years.

(b) If the commissioner determines that an employer has failed to comply with the requirements of this article or Article 3.5 (commencing with Section 2435) twice within a period of 24 consecutive months, the commissioner may, after a hearing, prohibit the employer from participating in any freeway service patrol operation for two years.

(c) Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code does not apply to the hearing specified in subdivision (a) or (b).

2432.3. (a) This article does not preempt the authority of any city, city and county, or county to regulate, pursuant to subdivision (g) of Section 21100, any of the matters covered by this article.

(b) (1) For the purposes of verifying the criminal history of individuals involved in the operation of tow truck services, law enforcement agencies of any city, city and county, or county may conduct criminal history checks for all of the following:

(A) Applicants for employment to drive tow trucks.

(B) Those who drive tow trucks.

(C) Tow truck owners-operators.

(2) The law enforcement agency may obtain the fingerprints of the individuals on a form approved by the Department of Justice and provided by the agency. The fingerprint samples shall be submitted to the Department of Justice for the purpose of determining whether the individual has been convicted of any violation, including, but not limited to, Section 220, subdivision (1), (2), (3), or (4) of Section 261, or Section 264.1, 267, 288, or 289 of the Penal Code, or any felony or three misdemeanors which are crimes of violence, as defined in subdivision (g) of Section 11105.3 of the Penal Code.

(3) For purposes of conducting criminal history screening of tow truck driver applicants, employees, and employers who have not resided continuously in the state for the previous seven years, the law enforcement agency of any city, city and county, or county, may obtain a second set of fingerprints, when necessary, and may submit that card to the Federal Bureau of Investigation for out-of-state criminal history checks.

(c) The law enforcement agency of any city, city and county, or county may charge a fee sufficient to cover the cost of obtaining and processing the fingerprint cards through the Department of Justice.

(d) For the purposes of conducting driver history screening of applicants to drive tow trucks, employees, and owners-operators, the law enforcement agency of any city, city and county, or county may verify that the applicant or owner-operator, as the case may be, has a valid California driver's license of the proper class, through the use of the automated records system.

(e) The Department of Justice shall develop a procedure whereby it will notify the requesting law enforcement agency if the person fingerprinted has been convicted of any of the specified crimes or is convicted of a specified crime subsequent to employment or beginning operation of a tow service. The Department of Justice shall release the requested information to the requesting agency.

(f) Information released to the requesting agency may be utilized for licensing and regulating procedures established pursuant to subdivision (g) of Section 21100.

(g) Information released to the requesting agency shall be related

to its inquiry, shall remain confidential, and shall not be made public.

SEC. 4. Article 3.5 (commencing with Section 2435) is added to Chapter 2 of Division 2 of the Vehicle Code, to read:

Article 3.5. Emergency Roadside Assistance

2435. (a) The Legislature finds and declares that the emergency roadside assistance provided by highway service organizations is a valuable service which benefits millions of California motorists. The Legislature further finds and declares that emergency roadside assistance is provided statewide, in cooperation with, and shares resources with, public safety agencies. The Legislature also finds that the Department of the California Highway Patrol, in cooperation with the Department of Transportation, is responsible for the rapid removal of impediments to traffic on highways within the state and that the Department of the California Highway Patrol may enter into agreements with employers for freeway service patrol operations under an agreement or contract with a regional or local entity. The Legislature declares that it is in the public interest to establish minimum standards for the emergency roadside assistance provided, or contracted for, by highway service organizations or operated under an agreement with a regional or local entity. The Legislature also declares that it is necessary to increase the public input into the development of minimum standards, and for that reason is creating an Advisory Committee to provide advice on the standards. The Legislature declares that it is important to the public safety that drivers who provide emergency roadside service not have criminal records which include violent crimes against persons.

(b) The Legislature also declares that the Department of the California Highway Patrol, in cooperation with the Department of Transportation, shall be responsible for establishing the minimum training standards for highway service organization employees and employers who participate in freeway service patrol operations pursuant to an agreement or contract with a regional or local entity.

2436. For the purposes of this article:

(a) "Committee" means the Emergency Roadside Assistance Advisory Committee.

(b) "Emergency road service" is the adjustment, repair, or replacement by a highway service organization of the equipment, tires, or mechanical parts of a motor vehicle so as to permit it to be operated under its own power. "Towing service" is the drafting or moving by a highway service organization of a motor vehicle from one place to another under power other than its own.

(c) "Emergency roadside assistance" means towing service or emergency road service.

(d) "Highway service organization" means a motor club, as defined by Section 12142 of the Insurance Code and, in addition, includes any person or organization which operates or directs the operation of highway service vehicles to provide emergency

roadside assistance to motorists, or any person or organization which is reimbursed or reimburses others for the cost of providing emergency roadside assistance, and any employer and include any person or organization which directly or indirectly, with or without compensation, provides emergency roadside assistance.

2436.3. (a) On and after July 1, 1992, every employer shall obtain from the department a carrier identification number. Application for a carrier identification number shall be on forms furnished by the department. The number shall be displayed on both sides of each tow truck utilized in any freeway service patrol operation, in accordance with Section 27907.

(b) No employer shall operate a tow truck in any freeway service patrol operation if the carrier identification number issued pursuant to subdivision (a) has been suspended by the commissioner pursuant to Section 2432.1.

(c) The carrier identification number shall be removed before sale, transfer, or other disposal of the vehicle, or upon termination of an agreement or contract for freeway service patrol operations.

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

2436.5. (a) The department, in cooperation with the Department of Transportation, shall provide training, pursuant to a reimbursable agreement or contract with a regional or local entity, for all employers and tow truck drivers who are involved in freeway service patrol operations pursuant to an agreement or contract with the regional or local entity. Dispatchers for freeway service patrol operations shall be employees of the department or the Department of Transportation.

(b) The training shall include, but not be limited to, all of the following:

(1) Tow truck driver and motorist safety.

(2) Patrol responsibility.

(3) Vehicle operation.

(4) Traffic control and scene management.

(5) Communication procedures.

(6) Demeanor and courtesy.

2436.7. (a) Every tow truck driver and employer, involved in a freeway service patrol operation under an agreement or contract with a regional or local entity, shall attend the training specified in subdivision (b) of Section 2436.5.

(b) Upon successful completion of the training, each trainee shall be issued a certificate of completion. The certificate shall state the name of the training organization, the name and signature of the trainer, the name of the trainee, and the date of completion of the training.

(c) The trainee shall provide a copy of the certificate of training to the employer. The employer shall maintain this information in the tow truck driver files established pursuant to subdivision (c) of Section 2430.5.

(d) Every employer shall make the file available for inspection by

the department at the employer's primary place of business in this state.

2437. (a) The committee is hereby created. The committee shall comprise 10 members which reflect the ethnic and cultural diversity of California, and shall be appointed as follows:

(1) The commissioner shall appoint one person representing law enforcement agencies who shall serve as the committee chairperson and the person who is the Chairperson of the California Service Authority for Freeway Emergencies Committee.

(2) The Governor, or his or her designee, shall appoint four persons representing the general public, one person representing highway service organizations, and one person representing towing service organizations.

(3) The Speaker of the Assembly shall appoint one person representing the general public.

(4) The Senate Committee on Rules shall appoint one person representing the general public.

(b) The committee shall function during the two-year period of the project and shall submit its recommendations to the commissioner on or before July 1, 1994. Those recommendations shall be included in the report submitted to the Legislature pursuant to subdivision (b) of Section 2430. The meetings of the committee shall be public and shall be noticed.

(c) The existence of the committee shall terminate on July 1, 1994, at which time the commissioner shall succeed to the powers and duties of the committee.

2438. (a) The committee shall recommend standards of training to be provided to each tow service or emergency road service dispatcher and tow service employee providing emergency roadside assistance employed by, or under contract with, a highway service organization.

(b) Training shall include, but not be limited to, all of the following:

(1) Call evaluation.

(2) Courtesy.

(3) Dealing with panic.

(4) Special populations, such as the young, the elderly, and handicapped persons.

(5) Evaluation of motorist safety.

(6) Use of the "911" emergency telephone number.

(c) Training, other than that required by Section 2436.5, may be conducted by emergency roadside assistance organizations or their trade organizations or local law enforcement agencies.

2439. The committee shall recommend guidelines for the enhancement of motorist safety setting forth procedures for telephone dispatchers, tow truck drivers, and highway service organizations that reimburse service recipients for emergency roadside assistance. The guidelines shall include, but not be limited to, all of the following:

(a) Enumeration of the order of response priority for dispatching emergency roadside assistance to various types of roadside emergencies requiring either towing service or emergency road service.

(b) Time frame response guidelines for highway service organizations for responding to various categories of assistance requests, including those emanating from freeways, rural areas, and unsafe areas.

(c) A process for highway service organizations to establish a series of safe "pickup points" in appropriate locations, such as parking lots and structures. The process shall include soliciting the recommendations of local law enforcement agencies.

(d) A requirement that, when giving instructions to motorists, the safety of the motorist shall be of primary consideration.

(e) Guidelines for emergency roadside assistance services for which reimbursement is provided.

2440. Not later than May 15, 1993, and each May 15 thereafter, every highway service organization and employer shall submit a report to the commissioner showing, for the preceding year, the number of calls for emergency roadside assistance received and responded to, the range of response times, and a summary of the types and numbers of safety-related complaints received from motorists regarding their employees response to, or failure to respond to, motorist's requests for emergency roadside assistance during freeway service patrol operations.

SEC. 5. Section 12520 is added to the Vehicle Code, to read:

12520. (a) On and after July 1, 1992, no person employed as a tow truck driver, as defined in Section 2430.1, shall operate a tow truck unless that person has, in his or her immediate possession, a valid California driver's license of an appropriate class for the vehicle to be driven, and a tow truck driver certificate issued by the department or a temporary tow truck driver certificate issued by the Department of the California Highway Patrol, to permit the operation of the tow truck.

(b) When notified that the applicant has been cleared through the Department of Justice or the Federal Bureau of Investigation, or both, and if the applicant meets all other applicable provisions of this code, the department shall issue a permanent tow truck driver certificate. The permanent tow truck driver certificate shall be valid for a maximum of four years and shall expire on the same date as that of the applicant's driver's license.

SEC. 6. Section 13377 is added to the Vehicle Code, to read:

13377. (a) The department shall not issue or renew, or shall revoke, the tow truck driver certificate of an applicant or holder for any of the following causes:

(1) The tow truck driver certificate applicant or holder has been convicted of a violation of Section 220 of the Penal Code.

(2) The tow truck driver certificate applicant or holder has been convicted of a violation of subdivision (1), (2), (3), or (4) of Section

261 of the Penal Code.

(3) The tow truck driver certificate applicant or holder has been convicted of a violation of Section 264.1, 267, 288, or 289 of the Penal Code.

(4) The tow truck driver certificate applicant or holder has been convicted of any felony or three misdemeanors which are crimes of violence, as defined in subdivision (g) of Section 11105.3 of the Penal Code.

(5) The tow truck driver certificate applicant's or holder's driving privilege has been suspended or revoked in accordance with any provisions of this code.

(b) For purposes of this section, a conviction means a plea or verdict of guilty or a conviction following a plea of nolo contendere. For purposes of this section, the record of a conviction, or a copy thereof certified by the clerk of the court or by a judge of the court in which the conviction occurred, is conclusive evidence of the conviction.

(c) Whenever the department receives information from the Department of Justice, or the Federal Bureau of Investigation, that a tow truck driver has been convicted of an offense specified in paragraph (1), (2), (3), or (4) of subdivision (a), the department shall immediately notify the employer and the Department of the California Highway Patrol.

(d) An applicant or holder of a tow truck driver certificate, whose certificate was denied or revoked, may reapply for a certificate whenever the applicable felony or misdemeanor conviction is reversed or dismissed. If the cause for the denial or revocation was based on the suspension or revocation of the applicant's or holder's driving privilege, he or she may reapply for a certificate upon restoration of his or her driving privilege. A termination of probation and dismissal of charges pursuant to Section 1203.4 of the Penal Code or a dismissal of charges pursuant to 1203.4(a) of the Penal Code is not a dismissal for purposes of this section.

SEC. 7. Section 13378 is added to the Vehicle Code, to read:

13378. (a) Any applicant for, or holder of, a tow truck driver certificate who has received a notice of denial or revocation, may, within 15 days of the mailing of the notice, submit to the department a written request for a hearing. Failure to request a hearing, in writing, within 15 days is a waiver of the right to a hearing.

(b) Upon receipt by the department of the hearing request, the department may stay the action until a hearing is conducted and the final decision is made by the hearing officer. The department shall not stay the action when there is reasonable cause to believe that the stay would pose a threat to a member of the motoring public who may require the services of the tow truck driver in question.

(c) An applicant for, or a holder of, a tow truck driver certificate, whose certificate has been denied or revoked, is not entitled to a hearing whenever the action by the department is made mandatory by this article or any other applicable law or regulation.

(d) Upon receipt of a request for a hearing, and when the requesting party is entitled to a hearing under this article, the department shall appoint a hearing officer to conduct a hearing in accordance with Sections 14107, 14109, 14110, and 14111.

SEC. 8. Section 40000.11 of the Vehicle Code is amended to read:

40000.11. A violation of any of the following provisions is a misdemeanor, and not an infraction:

(a) Division 5 (commencing with Section 11100), relating to occupational licensing and business regulations.

(b) Section 12500, subdivision (a), relating to unlicensed drivers.

(c) Section 12515, subdivision (b), relating to persons under 21 years of age driving, and the employment of those persons to drive, vehicles engaged in interstate commerce or transporting hazardous substances or wastes.

(d) Section 12517, relating to a special driver's certificate to operate a schoolbus or school pupil activity bus.

(e) Section 12519, subdivision (a), relating to a special driver's certificate to operate a farm labor vehicle.

(f) Section 12520, relating to a special driver's certificate to operate a tow truck.

(g) Section 12804, subdivision (d), relating to medical certificates.

(h) Section 12951, subdivision (b), relating to refusal to display license.

(i) Section 13004, relating to unlawful use of identification card.

(j) Section 13004.1, relating to identification documents.

(k) Section 14601, relating to driving when suspended.

(*l*) Section 14601.1, relating to driving when suspended.

(m) Section 14601.2, relating to driving when suspended.

(n) Section 14610, relating to unlawful use of driver's license.

(o) Section 14610.1, relating to identification documents.

(p) Section 15501, relating to use of false or fraudulent license by a minor.

SEC. 9. Section 40000.65 is added to the Vehicle Code, to read:

40000.65. A violation of Section 2430.5 or 2432, relating to emergency road service, is a misdemeanor and not an infraction.

SEC. 10. If any provision of this act or the application thereof to any person or circumstances is held invalid, that invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

SEC. 11. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the

California Constitution.

CHAPTER 489

An act to add Article 3 (commencing with Section 5951) to Chapter 9 of Part 1 of Division 4 of the Food and Agricultural Code, relating to pest control, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 4, 1991. Filed with Secretary of State October 7, 1991.]

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

SECTION 1. Article 3 (commencing with Section 5951) is added to Chapter 9 of Part 1 of Division 4 of the Food and Agricultural Code, to read:

Article 3. Sterile Mexican Fruit Fly Production Facility

5951. The Legislature hereby finds and declares all of the following:

(a) The introduction of Mexican fruit flies into California presents a serious threat to California's economy.

(b) The use of alternative methods for pest control is generally preferred to the aerial application of pesticides over urban areas.

(c) The use of sterile flies has proven to be one of the most effective nonchemical procedures in the successful control and eradication of Mexican fruit flies.

(d) California does not have a reliable source of sterile Mexican fruit flies that may be used to control future infestations of this pest.

(e) The federal government, other states, the agricultural industry, and the country of Mexico would all benefit from a reliable source of sterile Mexican fruit flies.

5952. The director may establish and operate a facility outside of this state to produce sterile Mexican fruit flies or enter into an agreement with any other public or private entity to jointly establish and operate the facility.

5953. Any contract entered into by the department to determine the appropriate location, select a suitable facility, or prepare preliminary plans and working drawings is exempt from the Public Contract Code.

SEC. 2. The sum of five hundred thousand dollars ($500,000) is hereby appropriated to the Department of Food and Agriculture from the Department of Agriculture Building Fund, created pursuant to Section 621 of the Food and Agricultural Code, for expenditure by the director to determine the appropriate location, select a suitable facility, and prepare preliminary plans and working

drawings necessary to establish the facility described in Section 5952 of the Food and Agricultural Code.

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

In order to alleviate the threat of future infestations of Mexican fruit flies and the need to expedite the establishment of a sterile fruit fly production facility, it is necessary for this act to take effect immediately.

CHAPTER 490

An act to add Section 9703 to the Health and Safety Code, and to amend Section 487g of the Penal Code, relating to animals.

[Approved by Governor October 5, 1991 Filed with Secretary of State October 7, 1991.]

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

SECTION 1. Section 9703 is added to the Health and Safety Code, to read:

9703. (a) A pet cemetery owner may dispose of the remains of any pet which has been left for more than seven days at the pet cemetery if arrangements have not been made with the pet cemetery owner for the disposition of the pet.

(b) A pet cemetery owner shall post a notice conspicuous to the public on the cemetery site stating that the remains of any pet which has been left for more than seven days at the pet cemetery may be disposed of if arrangements have not been made with the cemetery owner for the disposition of the pet.

SEC. 2. Section 487g of the Penal Code is amended to read:

487g. Every person who steals or maliciously takes or carries away any animal of another for purposes of sale, medical research, or other commercial uses, or who knowingly, by any false representation or pretense, defrauds another person of any animal for purposes of medical research or slaughter, is guilty of a public offense punishable by imprisonment in a county jail not exceeding one year or in the state prison.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become

operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 491

An act to amend Section 3570 of, and to add Section 3569.5 to, the Elections Code, and to amend Sections 82002, 87304, 87306, and 88001 of the Government Code, relating to elections.

[Approved by Governor October 5, 1991. Filed with Secretary of State October 7, 1991]

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

SECTION 1. Section 3569.5 is added to the Elections Code, to read:

3569.5. If the ballot contains a question as to the confirmation of a justice of the Supreme Court or a court of appeal, the Secretary of State shall include in the state ballot pamphlet a written explanation of the electoral procedure for justices of the Supreme Court and the courts of appeal. The explanation shall state as follows:

Under the California Constitution, justices of the Supreme Court and the courts of appeal are subject to confirmation by the voters. The public votes "yes" or "no" on whether to retain each justice.

These judicial offices are nonpartisan.

Before a person can become an appellate justice, the Governor must submit the candidate's name to the Judicial Nominees Evaluation Commission, made up of public members and lawyers. The commission conducts a thorough review of the candidate's background and qualifications, with community input, and then forwards its evaluation of the candidate to the Governor.

The Governor then officially nominates the candidate, whose qualifications are subject to public comment before examination and review by the Commission on Judicial Appointments. That commission consists of the Chief Justice of California, the Attorney General of California, and a senior Presiding Justice of the Courts of Appeal. The Commission on Judicial Appointments must then confirm or reject the nomination. Only if confirmed does the nominee become a justice.

Following confirmation, the justice is sworn into office and is subject to voter approval at the next gubernatorial election, and thereafter at the conclusion of each term.

SEC. 2. Section 3570 of the Elections Code is amended to read:

3570. The ballot pamphlet shall contain all of the following:

(a) A complete copy of each state measure.

(b) A copy of the specific constitutional or statutory provision, if any, which would be repealed or revised by each state measure.

(c) A copy of the arguments and rebuttals for and against each

state measure.

(d) A copy of the analysis of each state measure.

(e) Tables of contents, indexes, art work, graphics and other materials which the Secretary of State determines will make the ballot pamphlet easier to understand or more useful for the average voter.

(f) A notice, conspicuously printed on the cover of the ballot pamphlet, indicating that additional copies of the ballot pamphlet will be mailed by the county clerk upon request.

(g) A written explanation of the judicial retention procedure as required by Section 3569.5.

SEC. 3. Section 82002 of the Government Code is amended to read:

82002. "Administrative action" means the proposal, drafting, development, consideration, amendment, enactment or defeat by any state agency of any rule, regulation or other action in any rate-making proceeding or any quasi-legislative proceeding, which shall include any proceeding governed by Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2.

SEC. 4. Section 87304 of the Government Code is amended to read:

87304. If any agency fails to submit a proposed conflict of interest code or amendments, or if any state agency fails to report amendments pursuant to subdivision (b) of Section 87306 within the time limits prescribed pursuant to Section 87303 or 87306, the code reviewing body may issue any appropriate order directed to the agency or take any other appropriate action, including the adoption of a conflict of interest code for the agency. If the code reviewing body does not issue an appropriate order or take other action within 90 days of the deadline imposed on the agency as prescribed in Section 87303 or 87306, the commission may issue any appropriate order directed to the agency or take any other appropriate action, including the adoption of a conflict of interest code for the agency. The commission shall consult with the agency before ordering the adoption of a conflict of interest code for the agency.

SEC. 5. Section 87306 of the Government Code is amended to read:

87306. (a) Every agency shall amend its Conflict of Interest Code, subject to the provisions of Section 87303, when change is necessitated by changed circumstances, including the creation of new positions which must be designated pursuant to subdivision (a) of Section 87302 and relevant changes in the duties assigned to existing positions. Amendments or revisions shall be submitted to the code reviewing body within 90 days after the changed circumstances necessitating the amendments have become apparent. If after nine months following the occurrence of those changes the Conflict of Interest Code has not been amended or revised, the superior court may issue any appropriate order in an action brought under the procedures set forth in Section 87305.

(b) Notwithstanding subdivision (a), every state agency shall submit to the code reviewing body a biennial report identifying changes in its code, including, but not limited to, all new positions designated pursuant to subdivision (a) of Section 87302, changes in the list of reportable sources of income, and relevant changes in the duties assigned to existing positions. These reports shall be submitted no later than March 1 of each odd-numbered year.

SEC. 6. Section 88001 of the Government Code is amended to read:

88001. The ballot pamphlet shall contain all of the following:

(a) A complete copy of each state measure.

(b) A copy of the specific constitutional or statutory provision, if any, which would be repealed or revised by each state measure.

(c) A copy of the arguments and rebuttals for and against each state measure.

(d) A copy of the analysis of each state measure.

(e) Tables of contents, indexes, art work, graphics and other materials which the Secretary of State determines will make the ballot pamphlet easier to understand or more useful for the average voter.

(f) A notice, conspicuously printed on the cover of the ballot pamphlet, indicating that additional copies of the ballot pamphlet will be mailed by the county clerk upon request.

(g) A written explanation of the judicial retention procedure as required by Section 3569.5 of the Elections Code.

SEC. 7. The Legislature finds and declares that the provisions of this act further the purposes of the Political Reform Act of 1974 within the meaning of subdivision (a) of Section 81012 of the Government Code.

CHAPTER 492

An act to amend Section 11366 of the Health and Safety Code, relating to controlled substances.

[Approved by Governor October 5, 1991 Filed with Secretary of State October 7, 1991.]

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

SECTION 1. Section 11366 of the Health and Safety Code is amended to read:

11366. Every person who opens or maintains any place for the purpose of unlawfully selling, giving away, or using any controlled substance which is (1) specified in subdivision (b), (c), or (e), or paragraph (1) of subdivision (f) of Section 11054, specified in paragraph (13), (14), (15), or (20) of subdivision (d) of Section 11054, or specified in subdivision (b), (c), paragraph (1) or (2) of

subdivision (d), or paragraph (3) of subdivision (e) of Section 11055, or (2) which is a narcotic drug classified in Schedule III, IV, or V, shall be punished by imprisonment in the county jail for a period of not more than one year or the state prison.

SEC. 2. Section 11366 of the Health and Safety Code is amended to read:

11366. Every person who opens or maintains any place for the purpose of unlawfully selling, giving away, or using any controlled substance which is (1) specified in subdivision (b), (c), or (e), or paragraph (1) of subdivision (f) of Section 11054, specified in paragraph (13), (14), (15), or (20) of subdivision (d) of Section 11054, or specified in subdivision (b) , (c), paragraph (1) or (2) of subdivision (d), or paragraph (3) of subdivision (e) of Section 11055, or (2) which is a narcotic drug classified in Schedule III, IV, or V is guilty of a misdemeanor or a Schedule E felony, punishable by imprisonment in a county jail for not more than one year, or in the state prison.

SEC. 3. Section 2 of this bill incorporates amendments to Section 11366 of the Health and Safety Code proposed by both this bill and Senate Bill 25. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1992, but this bill becomes operative first, (2) each bill amends Section 11366 of the Health and Safety Code, and (3) this bill is enacted after Senate Bill 25, in which case Section 11366 of the Health and Safety Code, as amended by Section 1 of this bill, shall remain operative only until the operative date of Senate Bill 25, at which time Section 2 of this bill shall become operative.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 493

An act to amend Sections 256 and 257 of the Welfare and Institutions Code, relating to juveniles.

[Approved by Governor October 5, 1991. Filed with Secretary of State October 7, 1991.]

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

SECTION 1. Section 256 of the Welfare and Institutions Code is amended to read:

256. Subject to the orders of the juvenile court, a traffic hearing officer may hear and dispose of (1) any case in which a minor under the age of 18 years as of the date of the alleged offense is charged with any violation of the Vehicle Code not declared to be a felony, (2) a violation of subdivision (m) of Section 602 of the Penal Code, (3) a violation of the Fish and Game Code not declared to be a felony, (4) a violation of any of the equipment and registration provisions of the Harbors and Navigation Code, (5) a violation of any provision of an ordinance of a city, county, or local agency relating to traffic offenses, or to nontraffic offenses regarding loitering or curfew, (6) a violation of Section 126 or 27176 of the Streets and Highways Code, (7) a violation of any provision of an ordinance of a city, county, or local agency relating to evasion of fares on a public transportation system, as defined by Section 99211 of the Public Utilities Code, (8) a violation of Section 640 or 640a of the Penal Code, (9) a violation of the rules and regulations established pursuant to Sections 5003 and 5008 of the Public Resources Code, (10) a violation of Section 33211.6 of the Public Resources Code, (11) a violation of Section 25658, 25658.5, 25661, or 25662 of the Business and Professions Code, (12) a violation of subdivision (f) of Section 647 of the Penal Code, or (13) a misdemeanor violation of Section 594 of the Penal Code involving defacing property with paint or any other liquid.

SEC. 2. Section 257 of the Welfare and Institutions Code is amended to read:

257. With the consent of the minor, a hearing before a traffic hearing officer, or a hearing before a referee or a judge of the juvenile court, where the minor is charged with a traffic offense or a nontraffic offense as specified in this section, may be conducted upon an exact legible copy of a written notice given pursuant to Article 2 (commencing with Section 40500) of Chapter 2 of Division 17 or Section 41103 of the Vehicle Code, or an exact legible copy of a written notice given pursuant to Chapter 5C (commencing with Section 853.6) of Title 3 of Part 2 of the Penal Code when the offense charged is a violation of the Fish and Game Code not declared to be a felony, a violation of subdivision (m) of Section 602 of the Penal Code, a violation of a provision of an ordinance of a city, county, or local agency relating to loitering, curfew, or fare evasion on a public

transportation system, as defined by Section 99211 of the Public Utilities Code, a violation of Section 640 or 640a of the Penal Code, a violation of the rules and regulations established pursuant to Sections 5003 and 5008 of the Public Resources Code, a violation of Section 33211.6 of the Public Resources Code, a violation of Section 25658, 25658.5, 25661, or 25662 of the Business and Professions Code, a violation of subdivision (f) of Section 647 of the Penal Code, or a misdemeanor violation of Section 594 of the Penal Code involving defacing property with paint or any other liquid. in lieu of a petition as provided in Article 16 (commencing with Section 650).

CHAPTER 494

An act to amend Sections 3900, 3901, and 3915 of the Public Resources Code, relating to mining claims.

[Approved by Governor October 5, 1991 Filed with Secretary of State October 7, 1991.]

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

SECTION 1. Section 3900 of the Public Resources Code is amended to read:

3900. Any person, who is a citizen of the United States or who has declared his or her intention to become a citizen, and who discovers a vein or lode of quartz, or other rock in place, bearing gold, silver, cinnabar, lead, tin, copper, or any other valuable deposit, may locate a claim upon the vein or lode, by defining the boundaries of the claim, in the manner specified in this chapter, by erecting at the point of discovery a monument as defined in Section 3915, and by posting in or on the monument a notice of the location. The notice shall contain all of the following:

(a) The name of the lode or claim.

(b) The name, current mailing address or current residence address, of the locator.

(c) The number of linear feet claimed in length along the course of the vein, each way from the point of discovery, with the width on each side of the center of the claim, and the general course of the vein or lode, as near as may be.

(d) The date of location, which shall be the date of posting the notice.

(e) A description of the type of monuments used for the discovery and corner monuments.

(f) A description of the claim by reference to some natural object, or permanent monument, as will identify the claim located.

SEC. 2. Section 3901 of the Public Resources Code is amended to read:

3901. The locator of any lode mining claim shall define the

boundaries of the claim so that they may be readily traced, but in no case shall the claim extend more than 1,500 feet along the course of the vein or lode, or more than 300 feet on either side thereof as measured from the centerline of the vein at the surface. Within 60 days after the date of location of any lode mining claim located, the locator shall erect at each corner of the claim, a monument as defined in Section 3915. Each corner monument so erected shall bear or contain markings sufficient to appropriately designate the corner of the mining claim and the name of the claim to which it pertains.

SEC. 3. Section 3915 of the Public Resources Code is amended to read:

3915. (a) The following are the only monuments which may be used pursuant to this chapter:

(1) A wooden post not less than 1½ inches in diameter projecting at least two feet above the ground.

(2) A mound of stone projecting at least two feet above the ground.

(3) A nonperforated, capped metal post or solid metal rod, not less than one inch in diameter and projecting at least two feet above the ground.

(b) Where, by reason of precipitous ground, it is impractical or dangerous to place a monument in its true position, a witness monument may be erected as near thereto as the nature of the ground will permit and marked so as to identify the true position.

(c) Where, by reason of working the claim, it is impractical or dangerous to maintain a monument in its true position, a witness monument shall be erected as near thereto as the nature of the ground will permit and marked so as to identify the true position.

(d) Any person using on January 1, 1992, or who has previously erected, any monument or object other than those defined in this section for the purposes of this chapter shall have until January 1, 1995, to comply with this section or remove those monuments which are not in compliance.

(e) Within 180 days of abandonment, relinquishment, or loss of a claim, in effect on January 1, 1992, all monuments pertaining to that claim shall be permanently removed by the locator. A person who violates this subdivision shall be subject to a fine of not more than fifty dollars ($50) for each monument which is not removed and additionally liable for any cost incurred by the federal, state, or county government agency which removes any monument or has it removed.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become

operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 495

An act to amend Sections 1674, 1680, and 1698.2 of the Code of Civil Procedure, and to add Section 11478.2 to the Welfare and Institutions Code, relating to social services.

[Approved by Governor October 5, 1991. Filed with Secretary of State October 7, 1991.]

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

SECTION 1. (a) It is the intent of the Legislature that the support enforcement program supervised by the state and administered by local district attorneys have the highest level of importance. To this end, it is the intent of the Legislature that prosecuting attorneys make support enforcement efforts one of their highest priorities and that support enforcement cases be pursued with diligence to enable families to be self-supporting and to avoid welfare dependency.

(b) It is the intent of the Legislature that to maximize the effectiveness of the support enforcement program, when establishing paternity and establishing, modifying, and enforcing support orders and judgments, prosecuting attorneys take all reasonable steps to consult with custodial parents, to inform recipients of available support enforcement services, and to provide recipients with information on all orders obtained by prosecuting attorneys on their behalf.

(c) It is further the intent of the Legislature that the people of the state should expect support enforcement cases to be considered among the most important cases in the prosecuting attorneys' offices.

SEC. 1.5. Section 1674 of the Code of Civil Procedure is amended to read:

1674. If this state is acting as an initiating state, the prosecuting attorney, upon the request of the court or the obligee, shall initiate proceedings under this title. If the prosecuting attorney neglects or refuses to initiate proceedings, the Attorney General may order the prosecuting attorney to comply with the request of the court, or may undertake the initiation of proceedings.

SEC. 2. Section 1680 of the Code of Civil Procedure is amended to read:

1680. (a) After the responding court receives copies of the complaint, certificate and act from the initiating court, the clerk of the court shall docket the case and notify the prosecuting attorney of his or her action. Claims received by this state from an initiating agency shall be forwarded to the district attorney for preparation

and filing of appropriate pleadings.

(b) The prosecuting attorney shall prosecute the case diligently. He or she shall take all action necessary to enable the court to obtain jurisdiction over the obligor or the obligor's property in accordance with law. He or she shall, upon being notified that the cause has been docketed, either (1) request the court to issue a citation requiring the defendant to appear personally at a specified time and place to show cause why an order should not be issued on the basis of the complaint on file, and cause a copy of the complaint and of the citation to be served upon the obligor at least 10 days prior to the hearing, or (2) request the issuance of a summons and cause a copy of the complaint and summons to be served upon the obligor.

(c) If the prosecuting attorney neglects or refuses to prosecute the case pursuant to this chapter, the Attorney General may order the prosecuting attorney to prosecute the case, or may undertake the prosecution.

SEC. 3. Section 1698.2 of the Code of Civil Procedure is amended to read:

1698.2. If this state is acting either as a rendering or a registering state, the prosecuting attorney shall represent the public interest in enforcing support obligations in proceedings under this part.

If the prosecuting attorney neglects or refuses to represent the public interest in enforcing support obligations, the Attorney General may order the prosecuting attorney to represent the public interest or may undertake the representation.

SEC. 4. Section 11478.2 is added to the Welfare and Institutions Code, to read:

11478.2. (a) In all actions involving paternity or support, including, but not limited to, proceedings under Title 3 (commencing with Section 241) of Part 3 of Division 1 of the Civil Code, under Part 5 (commencing with Section 4000) of Division 4 of the Civil Code, under Part 7 (commencing with Section 7000) of Division 4 of the Civil Code, under Title 10a (commencing with Section 1650) of Part 3 of the Code of Civil Procedure, and under this division, the district attorney and Attorney General represent the public interest in establishing, modifying, and enforcing support obligations. No attorney-client relationship shall be deemed to have been created between the district attorney or Attorney General and any person by virtue of the action of the district attorney or the Attorney General in carrying out these statutory duties.

(b) The provisions of subdivision (a) are declarative of existing law.

(c) In all requests for services of the district attorney or Attorney General pursuant to Section 11475.1 relating to actions involving paternity or support, not later than the same day an individual makes a request for these services in person, and not later than five working days after either (1) a case is referred for services from the county welfare department, (2) receipt of a request by mail for an application for services, or (3) an individual makes a request for

services by telephone, the district attorney or Attorney General shall give notice to the individual requesting services or on whose behalf services have been requested that the district attorney or Attorney General does not represent the individual or the children who are the subject of the case, that no attorney-client relationship exists between the district attorney or Attorney General and those persons, and that no such representation or relationship shall arise if the district attorney or Attorney General provides the services requested. Notice shall be in bold print and in plain English and shall be translated into the language understandable by the recipient when reasonable. The notice shall include the advice that the absence of an attorney-client relationship means that communications from the recipient are not privileged and that the district attorney or Attorney General may provide support enforcement services to the other parent in the future.

(d) The district attorney or Attorney General shall give the notice required pursuant to subdivision (c) to all recipients of services under Section 11475.1 who have not otherwise been provided that notice, not later than the date of the next annual notice required under Section 11476.2. This notice shall include notification to the recipient of services under Section 11475.1 that the recipient may inspect the clerk's file at the county clerk's office, and that, upon request, the district attorney, or, if appropriate, the Attorney General, will furnish a copy of the most recent order entered in the case.

(e) The district attorney, or, if appropriate, the Attorney General, shall provide to recipients of support services under Section 11475.1, not later than 30 calendar days after the filing of a complaint for paternity or support, or both, information sufficient to identify the cases, including the case name and docket number and address of the court where the complaint has been filed. In this initial notice, the district attorney or Attorney General shall inform the recipient that the district attorney or Attorney General may enter into a stipulated order resolving the complaint, and that if the recipient wishes to assist the prosecuting attorney, he or she should send all information on the noncustodial parent's earnings and assets to the prosecuting attorney.

(f) The district attorney or Attorney General shall give reasonable notice to recipients of services under Section 11475.1 of the initial date and time, and purpose of every hearing in a civil action for paternity or support. The district attorney or Attorney General shall make reasonable efforts to ensure that the district attorney or Attorney General has current addresses for recipients of support enforcement services. The notice shall be made no later than seven calendar days prior to the hearing, or within two days of the receipt of notice of the hearing by the district attorney or Attorney General, if notice is received less than seven calendar days prior to the hearing. The failure of the district attorney or Attorney General to comply with this subdivision shall not affect the validity of any order.

(g) The district attorney or Attorney General shall give notice to recipients of services under Section 11475.1 of every order obtained by the district attorney or Attorney General that establishes or modifies the support obligation for the recipient or the children who are the subject of the order, by sending a copy of the order to the recipient. The notice shall be made within 30 calendar days after the order has been filed. The district attorney or Attorney General shall also give notice to these recipients of every order obtained in any other jurisdiction, that establishes or modifies the support obligation for the recipient or the children who are the subject of the order, and which is received by the district attorney or Attorney General, by sending a copy of the order to the recipient within 30 calendar days after the district attorney or Attorney General has received a copy of the order. In any action enforced under Title 10a (commencing with Section 1650) of Part 3 of the Code of Civil Procedure, the notice shall be made in compliance with the requirements of that section. The failure of the district attorney or Attorney General to comply with this subdivision shall not affect the validity of any order.

(h) The district attorney or Attorney General shall give notice to the noncustodial parent against whom a civil action is filed that the district attorney or Attorney General is not the attorney representing any individual, including, but not limited to, the custodial parent, the child, or the noncustodial parent.

(i) Nothing in this section shall be construed to preclude any person who is receiving services under Section 11475.1 from filing and prosecuting an independent action to establish, modify, and enforce an order for current support on behalf of himself or herself or a child if that person is not receiving public assistance.

(j) A person who is receiving services under Section 11475.1 but who is not currently receiving public assistance on his or her own behalf or on behalf of a child shall be asked to execute, or consent to, any stipulation establishing or modifying a support order in any action in which that person is named as a party, before the stipulation is filed. The district attorney or Attorney General shall not submit to the court for approval a stipulation to establish or modify a support order in such an action without first obtaining the signatures of all parties to the action, their attorneys of record, or persons authorized to act on their behalf.

(k) The district attorney or Attorney General shall not enter into a stipulation which reduces the amount of past due support, including interest and penalties accrued pursuant to an order of current support, on behalf of a person who is receiving support enforcement services under Section 11475.1 and who is owed support arrearages that exceed unreimbursed public assistance paid to the recipient of the support enforcement services, without first obtaining the consent of the person who is receiving services under Section 11475.1 on his or her own behalf or on behalf of the child.

(*l*) The notices required in this section shall be provided in the following manner:

(1) In all cases in which the person receiving services under Section 11475.1 resides in California, notice shall be provided by mailing the item by first-class mail to the last known address of, or personally delivering the item to, that person.

(2) In all actions enforced under Title 10a (commencing with Section 1650) of Part 3 of the Code of Civil Procedure, unless otherwise specified, notice shall be provided by mailing the item by first-class mail to the initiating court.

SEC. 5. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 496

An act to add Section 43806 to the Health and Safety Code, and to add Sections 28113 and 28114 to the Vehicle Code, relating to public transportation.

[Approved by Governor October 5, 1991 Filed with Secretary of State October 7, 1991.]

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

SECTION 1. The Legislature hereby finds and declares as follows:

(a) In many areas of the state, motor vehicles with conventional gasoline and diesel combustion engines are responsible for more air pollution than any other single source.

(b) Improved technology has made the use of low-emission vehicles feasible for use in the state.

(c) It is in the best interest of California to require the use of low-emission vehicles for public transportation because their use will result in a decrease in vehicular air pollution.

(d) It is in the best interest of the state that a variety of both alternative fueled vehicles and electric vehicles be available to the people of California in order to promote the most efficient use of available energy and help reduce air pollution.

SEC. 2. Section 43806 is added to the Health and Safety Code, to read:

43806. On or before January 1, 1993, the state board shall adopt emission standards and procedures applicable to new engines used in publicly owned and privately owned public transit buses, and shall make the standards and procedures effective on or before January 1, 1996. The standards shall consider the engine and fuel as a system and shall reflect the use of the best emission control technologies expected to be available at the time the standards and procedures become effective. In adopting standards, the state board shall consider the projected costs and availability of cleaner burning alternative fuels and low-emission vehicles compared with other air pollution control measures.

SEC. 3. Section 28113 is added to the Vehicle Code, to read:

28113. (a) Every light-duty and medium-duty motor vehicle operated for compensation to transport persons in an air quality management district or air pollution control district, which does not meet all applicable state ambient air quality standards, shall be a low-emission vehicle, as defined by regulation of the State Air Resources Board. If the vehicle is capable of operating on more than one fuel, it shall be operated within any nonattainment area to the maximum extent practicable either on the designated clean fuel on which the low-emission vehicle was certified or on any other fuel designated by the State Air Resources Board as a substitute fuel for the designated clean fuel. Any air quality management district or air pollution control district may adopt regulations for the enforcement of this section which are consistent with regulations of the State Air Resources Board.

(b) As used in this section, "motor vehicle operated for compensation to transport persons" includes a taxi cab, bus, airport shuttle vehicle, transit authority or transit district vehicle, or a vehicle owned by a private entity providing transit service under contract with a transit district or transportation authority.

(c) As used in this section, "light-duty" has the same meaning as defined in Section 39035 of the Health and Safety Code.

(d) As used in this section, "medium-duty" has the same meaning as defined in Section 39037.5 of the Health and Safety Code.

(e) This section applies to all new light-duty motor vehicles purchased on or after January 1, 1997, and to all new medium-duty vehicles purchased on or after January 1, 1998.

SEC. 4. Section 28114 is added to the Vehicle Code, to read:

28114. (a) Every heavy-duty vehicle operated by a transit authority or transit district, or owned by a private entity providing transit service under contract with a transit district or transportation authority, and used to transport persons for compensation shall meet the emission standards adopted by the State Air Resources Board pursuant to Section 43806 of the Health and Safety Code.

(b) As used in this section, "heavy-duty" has the same meaning as defined in Section 39033 of the Health and Safety Code.

(c) This section applies to all new heavy-duty motor vehicles purchased on or after January 1, 1996, and all new or replacement

engines purchased on or after January 1, 1996, for use in heavy-duty vehicles.

SEC. 5. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 497

An act to amend Sections 70047, 73344, 73348, 73349, and 73354 of, and to repeal and add Sections 73353 and 73353.2 of, the Government Code, relating to courts.

[Approved by Governor October 5, 1991. Filed with Secretary of State October 7, 1991.]

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

SECTION 1. Section 70047 of the Government Code is amended to read:

70047. (a) In Contra Costa County, the annual salary of each regular official reporter shall be based on a four-step salary plan as established by joint action and approval of the board of supervisors and a majority of the judges of the court. The step of entry shall be step one. However, the judges of the court may appoint any such reporter to a duly allocated exempt position at a higher step if, in the opinion of the appointing judge, an individual to be appointed has the experience and qualifications to entitle that individual to a higher initial step, but in no case may the initial salary be above the third step of the salary range. Official reporters shall advance to the next higher step on the salary plan annually, upon affirmative approval of the appointing authority. The compensation of each official reporter pro tempore shall be an amount which is equivalent to 1.05 times the daily wage of the fourth step in the salary range for full-time official reporters in Contra Costa County for each day the reporter is on duty under order of the court. Additional official reporters pro tempore may also be appointed on a half-day basis as the business of the court requires. Those reporters shall be compensated at a rate which is 55 percent of the daily wage of an official reporter pro tempore for each period up to four hours that the reporter is on duty under the order of the court.

(b) During the hours which the court is open for the transaction

of judicial business, the regular official reporter shall perform the duties required by law. When not engaged in the performance of any other duty imposed upon him or her by law, he or she shall render stenographic or clerical assistance to the judge of the court to which he or she is assigned as that judge may direct.

(c) The board of supervisors shall adjust the salary of regular official reporters as part of its regular review of county employee compensation. The adjustment shall be to that salary level closest to the average percentage adjustment in basic salaries of the county classes of superior court clerk, legal clerk, secretary, and clerk (experienced level), and shall be effective on the same date.

(d) In addition to any fee otherwise required, in civil trials that last longer than one judicial day, a fee equal to the per diem rate for official reporters pro tempore shall be charged per day of service to the parties, on a pro rata basis, for the services of an official reporter for the second and each succeeding day a reporter is required.

(e) In addition to any fee otherwise required, in civil cases in which the court orders a daily transcript necessitating the services of two phonographic reporters, the party requesting the daily transcript shall pay a fee equal to the per diem rate for official reporters pro tempore for each day of service rendered by the second reporter, for the first and each successive day of trial.

(f) All parties shall deposit their pro rata share of those fees with the clerk at the beginning of the second and each succeeding day's court session.

(g) The fees shall be taxed as costs in favor of any party paying the same and to whom costs are awarded by the judgment of the court. The fee is not subject to Section 6103.

SEC. 2. Section 73344 of the Government Code is amended to read:

73344. (a) Pursuant to Section 72194, the judges of the court may appoint as many additional reporters as the business of the court requires, who shall be known as official reporters pro tempore. They shall serve without salary but shall receive as compensation a fee which shall be an amount equivalent to 1.05 times the daily wage of the fourth step in the salary range for full-time official reporters in Contra Costa County as provided for by Section 73348 for each day that reporter is on duty under order of the court.

(b) Additional official reporters pro tempore may also be appointed on a half-day basis as the business of the court requires. Those reporters shall serve without salary but shall receive as compensation a fee which shall be 55 percent of the daily wage of an official reporter pro tempore for each period up to four hours that the reporter is on duty under order of the court.

SEC. 3. Section 73348 of the Government Code is amended to read:

73348. (a) In Contra Costa County, the annual salary of each regular official reporter shall be based on a four-step salary plan with one-year increments. Effective January 1, 1991, the four salary steps

are as follows:

Step 1. Forty-two thousand nine hundred sixty dollars ($42,960).

Step 2. Forty-five thousand one hundred eight dollars ($45,108).

Step 3. Forty-seven thousand three hundred sixty-four dollars ($47,364).

Step 4. Forty-nine thousand seven hundred twenty-eight dollars ($49,728).

The step of entry to the above schedule shall be Step 1. However, the judges of the court may appoint a court reporter to a duly allocated exempt position at a higher step if, in the opinion of the appointing judge, an individual to be appointed has the experience and qualifications to entitle that individual to the higher initial step, and if the higher initial salary has the approval of the presiding judge of the court and the board of supervisors, but in no case may the initial salary be above the third step of the salary range. Except as provided below, official reporters shall advance to the next higher step on the salary plan annually. The compensation of each official reporter pro tempore shall be an amount which is equivalent to 1.05 times the daily wage of the fourth step in the salary range for full-time official reporters in Contra Costa County for each day the reporter actually is on duty under order of the court which per diem rate shall apply when an official reporter is appointed pursuant to Section 869 of the Penal Code.

Irrespective of the step of the salary range to which initially appointed, an official court reporter shall be eligible for advancement to the next higher step in the salary range after six months' service, and thereafter shall advance on the salary range based on annual reviews.

(b) During the hours which the court is open for the transaction of judicial business, the regular official reporter shall perform the duties required by law. When not engaged in the performance of any other duty imposed upon him or her by law, he or she shall render stenographic or clerical assistance to the judge of the court to which he or she is assigned as the judge may direct.

(c) The board of supervisors shall adjust the salary of regular official reporters as part of its regular review of county employee compensation. The adjustment shall be to that salary level closest to the average percentage adjustment in basic salaries of the county classes of superior court clerk, legal clerk, secretary, and clerk (experienced level). The reporter salary adjustment shall be effective on the same day as the effective date of the board's action as to all of the aforesaid county classifications, but for official reporters of each municipal court district shall be effective only until January 1 of the second year following the calendar year in which the adjustment is made. The compensation of each official reporter pro tempore shall remain at the rate specified in subdivision (a) for the days he or she actually is on duty until changed by the board of supervisors at the same time and on the same basis as regular official reporters.

SEC. 4. Section 73349 of the Government Code is amended to read:

73349. Except as otherwise provided in this article, all paid employments of any municipal court now established or which may subsequently be established in Contra Costa County shall be under the merit system established in the county. The merit board of the county shall exercise the same jurisdiction over municipal court employments as it exercises over other county employments in the same manner as they apply to other merit system employments in the Contra Costa County service. In addition, all paid employments of any municipal court shall be subject to all provisions of the County Personnel Management Regulations and of the County Salary Regulations except as otherwise may be provided in this article.

In the event that one or more eligibles are not certified to a vacancy within six months of the date the position became vacant, or of the date of receipt of an examination request, whichever is later, the appointing authority may fill the vacancy by appointing any candidate who meets the minimum qualifications for the class as set forth in the class specification. The appointee shall thereby obtain merit system status as described above.

SEC. 5. Section 73353 of the Government Code is repealed.

SEC. 6. Section 73353 is added to the Government Code, to read:

73353. Effective January 1, 1991, classes of positions provided in Section 73351 are allocated to the salary schedule as follows:

Class Title	Salary Schedule	Pay Level
Deputy Clerk-Beginning Level	C5-1159	1448-1760
Deputy Clerk-Experienced Level	C5-1304	1673-2034
Deputy Clerk-Senior Level	XB-1471	1883-2404
Deputy Clerk-Specialist Level	XC-1543	2025-2583
Deputy Clerk-DEO I	C5-1257	1597-1941
Deputy Clerk-DEO II	C5-1354	1759-2138
Deputy Clerk-Senior DEO	C5-1427	1892-2300
Deputy Clerk-Courtroom Clerk	C5-1707	2503-3043
Deputy Clerk-Division Supervisor	C5-1754	2624-3189
Court Operations Coordinator-B	C5-1926	3116-3788
Court Operations Coordinator-A	C5-2023	3433-4173
District Court Manager-A	C5-2352	4770-5798
District Court Manager-B	C5-2242	4273-5194
District Court Manager-C	C5-2072	3606-4383
Executive Secretary	C3-1729	2821-3111
Municipal Court Training Officer	C5-1943	3169-3853
Municipal Court Management Analyst	C5-2017	3413-4148
Municipal Court Systems Manager	C5-2086	3656-4444
Municipal Court Fiscal Officer	C5-2084	3649-4436
Assistant County Municipal Court Administrator	C5-2329	4662-5666
County Municipal Court Administrator	C1-2513	6810 F

SEC. 7. Section 73353.2 of the Government Code is repealed.

SEC. 8. Section 73353.2 is added to the Government Code, to read:

73353.2. The Contra Costa County Board of Supervisors may adopt a resolution establishing a pay-for-performance bonus as defined in subdivision (d). Such a resolution shall state that the bonus program shall be funded by the county solely out of county funds, that the compensation is not a "court operation" for purposes of Sections 77003 and 77204, that the payment of the compensation shall not be a state obligation under the Brown-Presley Trial Court Funding Act, the Trial Court Realignment and Efficiency Act of 1991, or any other related measure, and that the county agrees not to seek funding from the state for the payment of the authorized compensation. If such a resolution is adopted:

(a) At six-month intervals, on January 1 and July 1 of each calendar year, the County Municipal Court Administrator shall conduct assessments of all permanent employees in the classes of Assistant County Municipal Administrator, District Court Manager C, Court Operations Coordinator A, Court Operations Coordinator B, and Deputy Clerk-Division Supervisor, for the purpose of determining eligibility for receipt of a pay-for-performance bonus.

(b) The appointing authority for the position of Municipal Court Administrator shall conduct an assessment on each January 1 and July 1 for the purpose of determining eligibility for receipt of a pay-for-performance bonus.

(c) The employees described in subdivisions (a) and (b) who are determined eligible for a pay-for-performance bonus at the semiannual review may be awarded that bonus. No pay-for-performance bonus may be awarded for a period longer than six months from the date of the semiannual review. Performance must be reevaluated each six months and reauthorization approved pursuant to subdivisions (a) and (b) for any bonus to continue.

(d) "Pay-for-performance bonus," as used in this section, means a monthly bonus, based on performance, equal to either 2.5 percent or 5 percent of the employee's monthly base pay as of the date of the semiannual review, to be awarded for up to a six-month period.

SEC. 9. Section 73354 of the Government Code is amended to read:

73354. Certain classifications in the municipal courts are deemed to be equivalent in job and salary level to certain classifications in the service of Contra Costa County and whenever the salary of a classification in the service of Contra Costa County is adjusted by the board of supervisors, the salary of the comparable classification in the municipal courts shall be adjusted a commensurate number of levels on the salary schedule. The adjustment shall be effective on the same day as the effective date of the action by the board of supervisors as it applies to the county classifications, but the adjustment shall be effective only until January 1 of the second year following the calendar year in which the adjustment is made.

(a) The individual court class and equivalent county class or relationship are as follows:

Court Class	Equivalent County Class
Deputy Clerk-Beginning	Clerk-Beginning
Deputy Clerk-Experienced	Clerk-Experienced
Deputy Clerk-Senior	Clerk-Senior
Deputy Clerk-Specialist	Clerk-Specialist
Deputy Clerk-DEO I	Data Entry Operator I
Deputy Clerk-DEO II	Data Entry Operator II
Deputy Clerk-Senior DEO	7.5% above Data Entry Operator II
Municipal Court Reporter	Superior Court Reporter
Deputy Clerk-Courtroom Clerk	17.8% above Clerk-Specialist

(b) The municipal court classes listed below are designated management classes and are eligible for all of the compensation and benefit considerations that the board of supervisors may extend to county management employees. Whenever the board of supervisors adopts a general salary adjustment for county management classes, the respective salary schedules of municipal court management classes shall be adjusted by an equivalent percentage amount. In no event shall the salary of Deputy Clerk-Division Supervisor be less than 2.5 percent above the salary of Deputy Clerk-Courtroom Clerk.

Management Positions:

Deputy Clerk-Division Supervisor
Court Operations Coordinator B or A
District Court Manager-A
District Court Manager-B
District Court Manager-C
Executive Secretary
Municipal Court Training Officer
Municipal Court Management Analyst
Municipal Court Systems Manager
Municipal Court Fiscal Officer
Assistant County Municipal Court Administrator
County Municipal Court Administrator

(c) For commissioners appointed prior to July 1, 1985, the class of court commissioner shall be allocated to a five-step salary schedule, in five percent incremental steps with the fifth step equivalent to 85 percent of the salary of a superior court judge in the County of Contra Costa. For commissioners appointed on and subsequent to July 1, 1985, the class of court commissioner shall be allocated to a three-step salary schedule, in 5 percent incremental steps with the third step equivalent to 85 percent of the salary of a municipal court judge in the County of Contra Costa. Upon appointment, a new court

commissioner shall be allocated to the first step of the schedule, except that an appointee with exceptionally high qualifications and experience may be appointed at a higher step with the board of supervisors' approval.

SEC. 10. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because this act is in accordance with the request of a local agency or school district which desired legislative authority to carry out the program specified in this act. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 498

An act to amend Sections 253.8, 263.2, 301, and 401 of, to add Sections 72 and 401.1 to, and to repeal Section 616 of, the Streets and Highways Code, relating to highways.

[Approved by Governor October 5, 1991. Filed with Secretary of State October 7, 1991.]

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

SECTION 1. Section 72 is added to the Streets and Highways Code, to read:

72. (a) The department shall do all of the following with respect to Route 480 in the City and County of San Francisco, commonly known as the Embarcadero Freeway, if approval for the use of federal emergency relief funds for that purpose is received from the appropriate federal agency:

(1) Remove the earthquake-damaged structure as quickly as possible.

(2) Retain that portion of the right-of-way that is necessary for new ramps and transfer to the City and County of San Francisco the remaining portions of the Route 480 right-of-way.

(3) Jointly agree with the City and County of San Francisco on a system of ramps and city streets that would essentially provide motorists with accessibility comparable to that provided by Route 480.

(b) The City and County of San Francisco shall do both of the following:

(1) Construct the system of ramps and city streets and utilize the Route 480 right-of-way or the proceeds from sales of that right-of-way for the sole purpose of constructing an alternate system of local streets pursuant to paragraph (3) of subdivision (a).

(2) Upon the transfer of that right-of-way pursuant to this section, accept all obligations and liabilities associated with that right-of-way.

(c) The total amount of state and federal funds to be expended by the state for the purposes of this section shall not exceed the amount of state and federal funds which would have been expended to repair and reopen the segment to traffic as a state highway.

(d) Nothing in this section or Section 253.8 shall be construed to prohibit the selection, development, and operation of a project pursuant to Section 143.

SEC. 2. Section 253.8 of the Streets and Highways Code is amended to read:

253.8. The California freeway and expressway system shall also include:

Route 227 from Route 1 south of Oceano to Route 101 near Arroyo Grande.

Route 244 from Route 80 to Auburn Boulevard.

Route 299 from:

(a) Route 101 near Arcata to Route 5 at Redding.

(b) Route 5 at Redding to Route 395 at Alturas.

Route 395 from:

(a) Route 15 near Cajon Pass to the Nevada state line.

(b) Nevada state line northwest of Reno to Route 36 near Johnstonville.

(c) Route 36 near Termo to the Oregon state line.

Route 905 from Route 5 near the south end of San Diego Bay to the international boundary southerly of Brown Field.

SEC. 3. Section 263.2 of the Streets and Highways Code is amended to read:

263.2. The state scenic highway system shall also include:

Route 1 from:

(a) Route 5 south of San Juan Capistrano to Route 19 near Long Beach.

(b) Route 187 near Santa Monica to Route 101 near El Rio.

(c) Route 101 at Las Cruces to Route 246 near Lompoc.

(d) Route 227 south of Oceano to Route 101 near Pismo Beach.

(e) Route 101 near San Luis Obispo to Route 35 near Daly City.

(f) Route 35 in San Francisco to Route 101 near the approach to the Golden Gate Bridge in San Francisco.

(g) Route 101 near Marin City to Route 101 near Leggett.

Route 2 from Route 210 in La Canada Flintridge to Route 138 via Wrightwood.

Route 3 from:

(a) Route 36 near Peanut to Route 299 near Douglas City.

(b) Route 299 near Weaverville to Montague.

Route 4 from:

(a) Route 160 near Antioch to Route 84 near Brentwood.

(b) Route 49 near Angels Camp to Route 89.

SEC. 4. Section 301 of the Streets and Highways Code is amended to read:

301. Route 1 is from:

(a) Route 5 south of San Juan Capistrano to Route 101 near El Rio.

(b) Route 101 at Emma Wood State Park, 1.3 miles north of Route 33, to Route 101, 2.8 miles south of the Ventura-Santa Barbara county line at Mobil Pier Undercrossing.

(c) Route 101 near Las Cruces to Route 101 near Pismo Beach via the vicinity of Lompoc and Guadalupe.

(d) Route 101 near San Luis Obispo to Route 280 south of San Francisco along the coast via Cambria, San Simeon, and Santa Cruz.

(e) Route 280 near the south boundary of the City and County of San Francisco to Route 101 near the approach to the Golden Gate Bridge in San Francisco.

(f) Route 101 near the southerly end of Marin Peninsula to Route 101 near Leggett via the coast route through Jenner and Westport.

SEC. 5. Section 401 of the Streets and Highways Code is amended to read:

401. Route 101 is from:

(a) Route 5 near Seventh Street in Los Angeles to Route 80 near Division Street in San Francisco, passing near Ford Road south of San Jose.

(b) Route 80 near Division Street in San Francisco to the junction of Route 1, Funston approach, and the approach to the Golden Gate Bridge in the Presidio of San Francisco passing near the intersections of Lombard Street and Van Ness Avenue.

(c) A point in Marin County opposite San Francisco to the Oregon state line via Crescent City.

SEC. 6. Section 401.1 is added to the Streets and Highways Code, to read:

401.1. (a) The department, in consultation with the City and County of San Francisco, shall identify reasonable and practical alternatives for repairing the existing portions of Route 101 in the City and County of San Francisco that were damaged during the 1989 Loma Prieta earthquake and which were closed to traffic. The department shall identify and evaluate the costs and benefits of each alternative, including, but not limited to, the air quality and noise impacts.

(b) The department shall hold at least two public meetings in the development of the alternatives.

(c) Upon completion of the evaluation of the alternatives, the department may proceed with the repair or replacement of the damaged portions, if the selected alternative is approved by a resolution of the city and county.

(d) The total amount of state and federal funds to be expended by the department for the repair or replacement of the damaged portions approved by the city and county pursuant to this section shall not exceed the amount of state and federal funds which would have otherwise been expended by the department to restore the damaged portions to their previous capacity.

SEC. 7. Section 616 of the Streets and Highways Code is repealed.

SEC. 8. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because this

act is in accordance with the request of a local agency or school district which desired legislative authority to carry out the program specified in this act. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 499

An act to add Chapter 12 (commencing with Section 21610) to Part 3 of Division 5 of Title 2 of the Government Code, relating to the Public Employees' Retirement System, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 5, 1991. Filed with Secretary of State October 7, 1991]

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

SECTION 1. Chapter 12 (commencing with Section 21610) is added to Part 3 of Division 5 of Title 2 of the Government Code, to read:

CHAPTER 12. COMPLEMENTARY HEALTH PREMIUM PROGRAM FOR RETIRED MEMBERS

21610. As used in this part, "complementary health premium" means the additional premium paid by retired members whose health insurance premiums are paid under Section 20135 and whose allowances fall below the premium required to continue the health benefits plan coverage provided by their employers.

21611. (a) Any retired member whose health insurance premium is paid under Section 20135 and whose allowance is not sufficient to pay his or her contributions for the health benefits plan coverage provided by his or her employer may continue that coverage by paying to the board the balance of the premium owed plus the related administrative costs, as determined by the board.

(b) The retired member shall pay the complementary health premium by remitting to the board quarterly payments in advance.

(c) The board has no duty to identify, locate, or notify any retired member who may be eligible for programs established by this chapter.

(d) All moneys received pursuant to this chapter shall be deposited in the Public Employees' Contingency Reserve Fund established by Section 22840.

21612. (a) Due to the required administrative services necessary for the implementation of this chapter, permanent staff positions

shall be sought through the normal budgetary process.

(b) The board shall charge each participating retired member who elects to pay the complementary health premium a one-time setup charge and a monthly maintenance charge, in amounts sufficient to ensure the ongoing support of the program.

(c) All development and administrative costs of the program shall be paid by the participating retired members.

SEC. 2. (a) The Board of Administration of the Public Employees' Retirement System may administratively establish through the normal budgetary process the limited-term positions necessary to carry out this act for the 1991–92 fiscal year.

(b) There is hereby appropriated from the Public Employees' Contingency Reserve Fund to the board, for the 1991–92 fiscal year, the sum of seventy-five thousand dollars ($75,000) for salary and benefits, equipment, and other operating costs necessary to carry out this act.

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

In order that health benefits may be maintained for certain retired school members of the Public Employees' Retirement System, it is necessary that this act take effect immediately.

CHAPTER 500

An act to amend Section 4370 of the Civil Code, and to amend Section 110 of the Welfare and Institutions Code, relating to judicial proceedings.

[Approved by Governor October 5, 1991. Filed with Secretary of State October 7, 1991.]

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

SECTION 1. Section 4370 of the Civil Code is amended to read:

4370. (a) During the pendency of any proceeding under this part, the court may order any party, and based upon (1) determining an ability to pay and (2) consideration of the respective incomes and needs of the parties in order to ensure that each party has access to legal representation to preserve all of his or her rights, except a governmental entity, to pay such amount as may be reasonably necessary for the cost of maintaining or defending the proceeding and for attorney's fees. From time to time and before entry of judgment, the court may augment or modify the original award for costs and attorney's fees as may be reasonably necessary for the prosecution or defense of the proceeding or any proceeding related thereto, including after any appeal has been concluded. In respect

to services rendered or costs incurred after the entry of judgment, the court may award such costs and attorney's fees as may be reasonably necessary to maintain or defend any subsequent proceeding, and may augment or modify any award so made, including after any appeal has been concluded. Attorney's fees and costs within the provisions of this subdivision may be awarded for legal services rendered or costs incurred prior, as well as subsequent, to the commencement of the proceeding. Any order requiring a party who is not the husband or wife of another party to the proceedings to pay attorney's fees or costs shall be limited to an amount reasonably necessary to maintain or defend the action on the issues relating to that party.

(b) During the pendency of any proceeding under this part, an application for a temporary order making, augmenting, or modifying an award of attorney's fees or costs or both shall be made by motion on notice or by an order to show cause, except that it may be made without notice by an oral motion in open court in either of the following cases:

(1) At the time of the hearing of the cause on the merits.

(2) At any time prior to entry of judgment against a party whose default has been entered pursuant to Section 585 or 586 of the Code of Civil Procedure.

(c) Notwithstanding any other provision of law, absent good cause to the contrary, the court, upon (1) determining an ability to pay and (2) consideration of the respective incomes and needs of the parties in order to ensure that each party has access to legal representation to preserve all of his or her rights, shall award reasonable attorney's fees to a custodial parent or other person to whom payments should be made in any action to enforce an existing order for child support.

(d) Notwithstanding any other provision of law, absent good cause to the contrary, the court, upon (1) determining an ability to pay and (2) consideration of the respective incomes and needs of the parties in order to ensure that each party has access to legal representation to preserve all of his or her rights, shall award reasonable attorney's fees to a supported spouse in any action to enforce an existing order for spousal support.

SEC. 2. Section 110 of the Welfare and Institutions Code is amended to read:

110. This chapter shall remain in effect only until January 1, 1994, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1994, deletes or extends that date.

CHAPTER 501

An act to add Section 2938 to the Civil Code, relating to real property.

[Approved by Governor October 5, 1991. Filed with Secretary of State October 7, 1991.]

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

SECTION 1. Section 2938 is added to the Civil Code, to read:

2938. (a) A written assignment of interest in rents, issues, and profits of real property made in connection with a loan secured by real property, stating that it is absolute, shall be deemed to constitute a present transfer of the assignor's interest in existing and future rents, issues, and profits of that real property effective upon the execution and delivery of the assignment by the assignor.

(b) An assignment of an interest in rents, issues, and profits of real property, as described in subdivision (a), may be recorded in the records of the county recorder in which the real property is located in the same manner as any other conveyance of an interest in real property, whether the assignment is in a separate document or part of a mortgage or deed of trust, and when so duly recorded in accordance with the methods, procedures, and requirements for recordation of conveyances of other interests in real property, (1) the assignment shall be deemed to give constructive notice of the content and effect of the assignment with the same force and effect as any other duly recorded conveyance of an interest in real property, and (2) the interest granted by the assignment shall be deemed perfected as of the date of recordation, notwithstanding any provision of the assignment or of any other provision of law that would otherwise preclude or defer enforcement of the rights granted the assignee under the assignment until the occurrence of a subsequent event, including, but not limited to, a subsequent default of the assignor.

SEC. 2. The provisions of this act are declaratory of existing law.

CHAPTER 502

An act to amend Section 57379 of the Government Code, relating to incorporation.

[Approved by Governor October 5, 1991. Filed with Secretary of State October 7, 1991.]

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

SECTION 1. Section 57379 of the Government Code is amended

to read:

57379. If the first general municipal election following an incorporation election will occur less than one year after the effective date of incorporation, or occurred on or after November 1, 1987, and less than one year after the incorporation election, of the five elected members of the city council, the three receiving the lowest number of votes shall hold office until the second general municipal election following the incorporation election and until their successors are elected and qualified, and the two receiving the highest number of votes shall hold office until the third general municipal election following the incorporation election and until their successors are elected and qualified.

The first general municipal election following the incorporation election shall not be held unless either a proposition is to be voted upon or offices other than city council member offices are to be filled.

In the event that, pursuant to Section 56852.5, the first election for city council members was held after the election on the incorporation proposal, the term "incorporation election" in this section means the first election for city council members.

CHAPTER 503

An act to amend Section 148.1 of the Penal Code, relating to bombs.

[Approved by Governor October 5, 1991. Filed with Secretary of State October 7, 1991.]

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

SECTION 1. Section 148.1 of the Penal Code is amended to read:

148.1. (a) Any person who reports to any peace officer listed in Section 830.1 or 830.2, employee of a fire department or fire service, district attorney, newspaper, radio station, television station, deputy district attorney, employees of the Department of Justice, employees of an airline, employees of an airport, employees of a railroad or busline, an employee of a telephone company, occupants of a building or a news reporter in the employ of a newspaper or radio or television station, that a bomb or other explosive has been or will be placed or secreted in any public or private place knowing that the report is false, is guilty of a crime punishable by imprisonment in the state prison, or imprisonment in the county jail not to exceed one year.

(b) Any person who reports to any other peace officer defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 that a bomb or other explosive has been or will be placed or secreted in any public or private place, knowing that the report is false, is guilty

of a crime punishable by imprisonment in the state prison or in the county jail not to exceed one year if (1) the false information is given while the peace officer is engaged in the performance of his or her duties as a peace officer, and (2) the person providing the false information knows or should have known that the person receiving the information is a peace officer.

(c) Any person who maliciously informs any other person that a bomb or other explosive has been or will be placed or secreted in any public or private place, knowing that the information is false, is guilty of a crime punishable by imprisonment in the state prison, or imprisonment in the county jail not to exceed one year.

(d) Any person who maliciously gives, mails, sends, or causes to be sent any false or facsimile bomb to another person, or places, causes to be placed, or maliciously possesses any false or facsimile bomb, with the intent to cause another to fear for his or her personal safety or the safety of others, is guilty of a crime punishable by imprisonment in the state prison, or imprisonment in the county jail not to exceed one year.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 504

An act to amend Section 216 of the Streets and Highways Code, relating to highways.

[Approved by Governor October 5, 1991 Filed with Secretary of State October 7, 1991.]

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

SECTION 1. Section 216 of the Streets and Highways Code is amended to read:

216. (a) The noise level produced by the traffic on, or by the construction of, a state freeway shall be measured in the classrooms, libraries, multipurpose rooms, and spaces used for pupil personnel services of a public or private elementary or secondary school if the rooms or spaces are being used for the purpose for which they were constructed and they were constructed under any of the following circumstances:

(1) Prior to the award of the initial construction contract for the freeway route and prior to January 1, 1974.

(2) After December 31, 1973, and prior to the issuance of a statement of present and projected noise levels of the freeway route by the department pursuant to subdivision (g) of Section 65302 of the Government Code.

(3) Subsequent to the construction of the freeway but prior to any alteration or expansion of the freeway which results in a significant and perceptible increase in ambient noise levels in the rooms or spaces.

(b) The measurements shall be made at appropriate times during regular school hours and shall not include noise from sources that exceed the maximum permitted by law.

(c) If the noise level produced from the freeway traffic, or the construction of the freeway, exceeds 55dBA, L10, or 52dBA, Leq., the department shall undertake a noise abatement program in any such classroom, library, multipurpose room, or space used for pupil personnel services to reduce the freeway traffic noise level therein to 55dBA, L10, or 52dBA, Leq., or less, by, measures including, but not limited to, installing acoustical materials, eliminating windows, installing air conditioning, or constructing sound baffle structures.

(d) If the department determines that the construction of the freeway will result in a noise level exceeding 55dBA, L10, or 52dBA, Leq., the department shall complete the temporary or permanent noise abatement program prior to commencing that construction, or as soon as practicable thereafter.

(e) If it becomes necessary to convert the classrooms, libraries, multipurpose rooms, or spaces used for pupil personnel services to other school-related purposes because the freeway traffic noise level therein exceeds 55dBA, L10, or 52dBA, Leq., the department shall pay the cost of the conversions.

(f) If the noise level generated from sources within and without the classrooms, libraries, multipurpose rooms, or spaces used for pupil personnel services exceeds 55dBA, L10, or 52dBA, Leq. prior to construction of the freeway or completion of the alteration or expansion of the freeway, as the case may be, and the noise from the freeway, or its construction , alteration, or expansion, also exceeds 55dBA, L10, or 52dBA, Leq., the department shall undertake a noise abatement program that will reduce the noise to its preconstruction, prealteration, or preexpansion level.

(g) Priority for noise abatement programs shall be given to those public and private elementary and secondary classrooms, libraries, multipurpose rooms, and spaces used for pupil personnel services constructed in conformance with Article 3 (commencing with Section 39140) of Chapter 2 of Part 23 of Division 3 of Title 2 of the Education Code or subject to paragraph (3) of subdivision (a).

(h) As used in this section, dBA means decibels measured by the "A" weighting described in Section 3.1 of the American National Standard specification for sound level meters, S1.4-1971, approved

April 27, 1971, and published by the American National Standards Institute. L10 is the sound level that is exceeded 10 percent of the time for the period under consideration and is a value which is an indicator of both the magnitude and frequency of occurrence of the loudest noise events. Leq. is the equivalent steady state sound which in a stated period of time would contain the same acoustic energy as the time-varying sound level during the same time period.

CHAPTER 505

An act to amend Section 84200.5 of the Government Code, relating to the Political Reform Act of 1974.

[Approved by Governor October 5, 1991. Filed with Secretary of State October 7, 1991]

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

SECTION 1. Section 84200.5 of the Government Code is amended to read:

84200.5. In addition to the campaign statements required by Section 84200, elected officers, candidates, and committees shall file preelection statements as follows:

(a) During an even-numbered year all candidates for elective state office being voted upon on the first Tuesday after the first Monday in June or November, their controlled committees, and committees primarily formed to support or oppose an elected state officer or a state candidate being voted upon on the first Tuesday after the first Monday in June or November and all elected state officers who, during the reporting periods covered by Section 84200.7, contribute to any committee required to report receipts, expenditures, or contributions pursuant to this title, or make an independent expenditure, shall file the preelection statements specified in Section 84200.7. However, a candidate who is not being voted upon in the November election, his or her controlled committee, and any committee primarily formed to support or oppose that candidate is not required to file statements in connection with the November election pursuant to subdivision (b) of Section 84200.7, unless, during the reporting periods covered by Section 84200.7, the candidate, his or her controlled committee, or any committee primarily formed to support or oppose that candidate contributes to any committee required to report receipts, expenditures, or contributions pursuant to this title or makes independent expenditures.

(b) During an even-numbered year, all candidates not specified in subdivision (a) who are being voted upon on the first Tuesday after the first Monday in June or November, their controlled committees, and committees primarily formed to support or oppose

those candidates or a measure being voted upon on the first Tuesday after the first Monday in June or November of an even-numbered year shall file the preelection statements specified in subdivision (a) of Section 84200.7 in the case of a June election, or subdivision (b) of Section 84200.7 in the case of a November election.

(c) All candidates being voted upon on a date other than the first Tuesday after the first Monday in June or November of an even-numbered year, their controlled committees, and committees primarily formed to support or oppose a candidate or a measure being voted upon on a date other than the first Tuesday after the first Monday in June or November of an even-numbered year shall file the preelection statements specified in Section 84200.8.

(d) During an even-numbered year, state and county general purpose committees formed pursuant to subdivision (a) of Section 82013 shall file the statements specified in Section 84200.7 if they make contributions or independent expenditures totaling five hundred dollars ($500) or more during the period covered by the preelection statement. State and county general purpose committees formed pursuant to subdivision (b) or (c) of Section 82013 are not required to file the statements specified in Section 84200.7.

(e) City general purpose committees shall file statements as follows:

(1) City general purpose committees in a city which has an election on the first Tuesday after the first Monday in June or November of an even-numbered year shall file the statements specified in subdivision (a) or (b) of Section 84200.7 for the six-month period in which the city election is held, if they make contributions or independent expenditures totaling five hundred dollars ($500) or more during the period covered by the preelection statement.

(2) City general purpose committees in a city which has an election on a date other than the first Tuesday after the first Monday in June or November of an even-numbered year shall file the preelection statements specified in Section 84200.8 if they make contributions or independent expenditures totaling five hundred dollars ($500) or more during the period covered by the preelection statement.

(f) Committees formed or existing primarily to support or oppose the qualification of a ballot measure and proponents of a state ballot measure who control a committee formed or existing primarily to support the qualification of a measure shall file a campaign statement 21 days after any petitions are filed, or 21 days after the deadline for filing petitions, whichever is earlier. The closing date for the period covered by this statement shall be seven days prior to the deadline for filing the statement.

SEC. 2. The Legislature finds and declares that the provisions of this act further the purposes of the Political Reform Act of 1974 within the meaning of subdivision (a) of Section 81012 of the

Government Code.

CHAPTER 506

An act to amend Sections 18050.7, 18060, 18065, 18066, 18116.1, 18300, 18504, and 18613.7 of, and to add Section 18013.2 to, the Health and Safety Code, relating to mobilehomes, and making an appropriation therefor.

[Approved by Governor October 5, 1991 Filed with Secretary of State October 7, 1991.]

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

SECTION 1. Section 18013.2 is added to the Health and Safety Code, to read:

18013.2. "Third-party entity" or "third party," as used in this part, means an entity which is all of the following:

(a) In the business of inspecting equipment, systems, and assemblies and monitoring quality assurance programs, or analyzing plans, designs, specifications, and engineering calculations supporting design concepts.

(b) Not under the control or jurisdiction of any manufacturer or supplier for any affected industry except by contract as required and approved by the department.

(c) Making available specific information as required by the department.

(d) Approved by the department.

SEC. 2. Section 18050.7 of the Health and Safety Code is amended to read:

18050.7. In addition to any other requirements imposed by this part or regulations of the department, the department shall not grant an initial dealer's license to any applicant who has not satisfied all of the education and experience requirements contained in this section. If the applicant for a dealer's license is a partnership, corporation, or other business entity, each person designated to participate in the direction, control, or management of the sales operation of the entity shall meet all of the education and experience requirements contained in this section prior to issuance of a dealer's license by the department.

(a) The applicant either shall have held a valid salesperson's license for at least two years within the five-year period immediately preceding the application for an initial dealer's license, or shall meet any of the following criteria:

(1) Has acquired a four-year degree from an accredited college or university.

(2) Has held a valid salesperson's license for one year in the past three years and acquired an associate of arts or associate of science

degree from an accredited college.

(3) Has been the officer of the corporation, owner or partner of, or has held a management position relating to finance, marketing, administration, or general management with, a manufacturer of manufactured housing in any state for two years within the five years immediately preceding application for an initial dealer's license.

(4) Holds a management position with a housing authority, redevelopment agency, or nonprofit housing corporation which is developing individual lots, a subdivision, or a park for the placement of manufactured homes or mobilehomes.

(5) Has been an escrow, title, or loan officer of a land title company, bank, savings and loan association, or mortgage company in a capacity directly related to financing or conveying title to manufactured housing for two years within the five years immediately preceding application for an initial dealer's license.

(6) Has been a subdivider, developer, or contractor in any state during which time the applicant developed or sold 10 lots or the equivalent, for two years within the five years immediately preceding application for an initial dealer's license.

(7) Has been the officer of a corporation, the owner or partner of a mobilehome park or mobilehome park management company in any state for at least two years within the five years immediately preceding the application for an initial dealer's license.

(8) Has held a dealer's license from a state other than California for at least four years within the five years immediately preceding the application for an initial dealer's license, and has completed 24 hours of continuing education class in California, in addition to the continuing education requirement of subdivision (b).

(b) The applicant shall have met the applicable preliminary education requirements for the salesperson's license under paragraph (5) of subdivision (b) of Section 18056.2.

(c) The department may adopt regulations, as necessary, to implement this section.

SEC. 3. Section 18060 of the Health and Safety Code is amended to read:

18060. With respect to business operations, it is unlawful to do any of the following:

(a) Make, or knowingly or negligently permit, any illegal use of any special permits, transportation decals, or report of sales books issued to or in favor of a licensee or transporter.

(b) Submit a check, draft, or money order to the department for any obligation or fee due the department which is thereafter dishonored or refused payment upon presentation.

(c) Fail to notify the department, within 10 days, of any change in the ownership or corporate structure of the licensee, or of the employment or termination of a mobilehome or commercial coach salesperson.

SEC. 4. Section 18065 of the Health and Safety Code is amended to read:

18065. The licenses or permits provided for in this part shall be automatically canceled upon any of the following events:

(a) The abandonment of the established place of business of the licensee or the change thereof without notice to the department as provided in this part.

(b) The voluntary or involuntary surrender for any cause by the licensee of the license. However, the surrender or cessation of business by the licensee, or the suspension of the corporate charter of the licensee by the state, shall not prevent the filing of an accusation for revocation or suspension of the surrendered license as provided in Section 18058 or the department's decision that the license should be suspended or revoked. Furthermore, this determination may be considered in granting or refusing to grant any subsequent license authorized by this part to the licensee, copartner, or any officer, director, or stockholder of the prior licensee.

(c) Notification that the person designated as licensee has changed.

(d) Suspension or cancellation of the corporate charter of the licensee by the state.

(e) Failure of a licensee to file an application for renewal for the license or permit before the date of expiration of the current license or permit.

(f) Submittal of a check, draft, or money order to the department for a license or license renewal fees due the department which is thereafter dishonored or refused payment upon presentation and which fees and penalty are not thereafter paid by cash, money order, or cashier's check prior to the expiration of the license.

SEC. 5. Section 18066 of the Health and Safety Code is amended to read:

18066. The suspension, expiration, or cancellation of a license provided for in this part shall not prevent the filing of an accusation for the revocation or suspension of the suspended, expired, or canceled license as provided in Section 18058, and the department's decision that the license should be suspended or revoked. This determination may be considered in granting or refusing to grant any subsequent license authorized by this part to the licensee.

SEC. 6. Section 18116.1 of the Health and Safety Code is amended to read:

18116.1. (a) Nonpayment of the fees and penalties provided for in Sections 18114, 18114.1, and 18115, and in subdivisions (a), (b), (c), and (d) of Section 18116 that are due on a mobilehome, manufactured home, commercial coach, truck camper, or floating home shall constitute a lien in favor of the State of California in the amount owing.

(b) Notwithstanding any other provision of law, the lien provided for in subdivision (a) shall include all fees and penalties due and unpaid beginning with the fees for original registration that became delinquent for 120 days or more and continue to accrue to include

all fees and penalties that subsequently become due and remain unpaid.

(c) Until the amount of a lien provided for in subdivision (a) or (b) is paid to the department, the department shall not do either of the following:

(1) Amend the permanent title record of the manufactured home, mobilehome, commercial coach, truck camper, or floating home which is the subject of the lien for the purpose of transferring any ownership interest or transferring or creating any security interest in the manufactured home, mobilehome, commercial coach, truck camper, or floating home.

(2) Issue any duplicate, substitute, or new certificate of title, registration card, or copy of a registration card with respect to the manufactured home, mobilehome, commercial coach, truck camper, or floating home which is the subject of the lien.

SEC. 7. Section 18300 of the Health and Safety Code is amended to read:

18300. (a) This part applies to all parts of the state and supersedes any ordinance enacted by any city, county, or city and county, whether general law or chartered, applicable to this part. Except as provided in Section 18930, the department may adopt regulations to interpret and make specific this part and, when adopted, the regulations shall apply to all parts of the state.

(b) Upon 30 days' written notice from the governing body to the department, any city, county, or city and county may assume the responsibility for the enforcement of this part and the regulations adopted pursuant to this part following approval by the department for the assumption.

(c) The department shall adopt regulations which set forth the conditions for assumption and may include required qualifications of local enforcement agencies. The conditions set forth and the qualifications required in the regulations which set forth the conditions for assumption shall relate solely to the ability of local agencies to enforce properly this part and the regulations adopted pursuant to this part. The regulations which set forth the conditions for assumption shall not set requirements for local agencies different than those which the state maintains for its own enforcement program. When assumption is approved, the department shall transfer the responsibility for enforcement to the city, county, or city and county, together with all records of parks within the jurisdiction of the city, county, or city and county.

(d) (1) In the event of nonenforcement of this part or the regulations adopted pursuant to this part by a city, county, or city and county, the department shall enforce this part and the regulations adopted pursuant to this part in the city, county, or city and county, after the department has given written notice to the governing body of the city, county, or city and county, setting forth in what respects the city, county, or city and county has failed to discharge its responsibility, and the city, county, or city and county has failed to

initiate corrective measures to carry out its responsibility within 30 days of the notice.

(2) Where the department determines that the local enforcement agency is not properly enforcing this part, the local enforcement agency shall have the right to appeal the decision to the director of the department.

(e) Any city, city and county, or county, upon written notice from the governing body to the department, may cancel its assumption of responsibility for the enforcement of this part. The department, upon receipt of the notice, shall assume responsibility within 30 days.

(f) Every city, county, or city and county, within its jurisdiction, shall enforce this part and the regulations adopted pursuant to this part, as they relate to manufactured homes, mobilehomes, or recreational vehicles and to accessory buildings or structures located in both of the following areas:

(1) Inside of parks while the city, county, or city and county has assumed responsibility for enforcement of this part.

(2) Outside of parks.

(g) This part shall not prevent local authorities of any city, county, or city and county, within the reasonable exercise of their police powers, from doing any of the following:

(1) From establishing, subject to the requirements of Sections 65852.3 and 65852.7 of the Government Code, certain zones for manufactured homes, mobilehomes, mobilehome parks, and special occupancy parks within the city, county, or city and county, or establishing types of uses and locations, including family mobilehome parks, senior mobilehome parks, mobilehome condominiums, mobilehome subdivisions, or mobilehome planned unit developments within the city, county, or city and county, as defined in the zoning ordinance, or from adopting rules and regulations by ordinance or resolution prescribing park perimeter walls or enclosures on public street frontage, signs, access, and vehicle parking or from prescribing the prohibition of certain uses for mobilehome parks or special occupancy parks.

(2) From regulating the construction and use of equipment and facilities located outside of a manufactured home, mobilehome, or recreational vehicle used to supply gas, water, or electricity thereto, except facilities owned, operated, and maintained by a public utility, or to dispose of sewage or other waste therefrom when the facilities are located outside a park for which a permit is required by this part or the regulations adopted pursuant thereto.

(3) From requiring a permit to use a manufactured home, mobilehome, or recreational vehicle outside a park for which a permit is required by this part or by regulations adopted pursuant thereto, and require a fee therefor by local ordinance commensurate with the cost of enforcing this part and local ordinance with reference to the use of manufactured homes, mobilehomes, and recreational vehicles, which permit may be refused or revoked if the use violates this part or Part 2 (commencing with Section 18000), any

regulations adopted pursuant thereto, or any local ordinance applicable to that use.

(4) From requiring a local building permit to construct an accessory structure for a manufactured home or mobilehome when the manufactured home or mobilehome is located outside a mobilehome park, recreational vehicle park, or temporary recreational vehicle park, under circumstances which the provisions of this part or Part 2 (commencing with Section 18000) and the regulations adopted pursuant thereto do not require the issuance of a permit therefor by the department.

(5) From authorizing the creation, movement, shifting, or alteration of mobilehome park lot lines as specified in Section 18610.5.

(h) (1) A city, including a charter city, county, or city and county, shall not require the average density in a new park to be less than that permitted by the applicable zoning ordinance, plus any density bonus, as defined in Section 65915 of the Government Code, for other affordable housing forms.

(2) A city, including a charter city, county, or city and county, shall not require a new park to include a clubhouse. Recreational facilities, recreational areas, accessory structures, or improvements may be required only to the extent that the facilities or improvements are required in other types of residential developments containing a like number of residential dwelling units.

(i) The department may, at the department's sole option, enforce plan review activities associated with this part and the rules and regulations adopted thereunder through department-approved plan checking agencies. The department shall adopt regulations for approving and monitoring plan checking agencies, including, but not limited to, all of the following criteria:

(1) Freedom of any conflict of interest.

(2) Qualifications of personnel.

(3) A prohibition against collusive or fraudulent actions related to the performance of activities required by this part.

(4) Establishment of a schedule of fees to offset the department's cost of administering the approval and monitoring activities.

(5) Establishment of procedures for reimbursement to plan checking agencies for plan review services rendered.

(6) Establishment of a schedule of citations and administrative fines issued by the department upon finding a violation of this subdivision on the part of a plan checking agency.

(7) Any other conditions of operation the department may reasonably require.

(j) (1) The department may, by regulation, provide for the qualification of plan checking agencies to perform reviews of plans and specifications for the construction of mobilehome parks and to perform reviews of plans and specifications for the construction of additional buildings or lots, the alteration of buildings, lots, or other installations, in an existing mobilehome park, in areas in which the

department is the enforcement agency. The regulations shall specify that all approved plan checking agencies shall employ at least one architect or engineer, licensed by the State of California, and that the architect or engineer shall be responsible for all plan review activity specified in this part. Plans approved by department-approved agencies shall be deemed the equivalent of department approval of those plans.

(2) No agency approved to serve as a plan checking agency pursuant to this subdivision shall have a financial interest in any mobilehome park, with any owner, developer, or contractor of a mobilehome park, or in any entity used by the department for the purpose of performing oversight of the performance of plan checking agencies.

SEC. 8. Section 18300 of the Health and Safety Code is amended to read:

18300. (a) This part applies to all parts of the state and supersedes any ordinance enacted by any city, county, or city and county, whether general law or chartered, applicable to this part. Except as provided in Section 18303 or 18930, the department may adopt regulations to interpret and make specific this part and, when adopted, the regulations shall apply to all parts of the state.

(b) Upon 30 days' written notice from the governing body to the department, any city, county, or city and county may assume the responsibility for the enforcement of this part and the regulations adopted pursuant to this part following approval by the department for the assumption.

(c) The department shall adopt regulations which set forth the conditions for assumption and may include required qualifications of local enforcement agencies. The conditions set forth and the qualifications required in the regulations which set forth the conditions for assumption shall relate solely to the ability of local agencies to enforce properly this part and the regulations adopted pursuant to this part. The regulations which set forth the conditions for assumption shall not set requirements for local agencies different than those which the state maintains for its own enforcement program. When assumption is approved, the department shall transfer the responsibility for enforcement to the city, county, or city and county, together with all records of communities within the jurisdiction of the city, county, or city and county.

(d) (1) In the event of nonenforcement of this part or the regulations adopted pursuant to this part by a city, county, or city and county, the department shall enforce this part and the regulations adopted pursuant to this part in the city, county, or city and county, after the department has given written notice to the governing body of the city, county, or city and county, setting forth in what respects the city, county, or city and county has failed to discharge its responsibility, and the city, county, or city and county has failed to initiate corrective measures to carry out its responsibility within 30 days of the notice.

(2) If the department determines that the local enforcement agency is not properly enforcing this part, the local enforcement agency may appeal the decision to the director of the department.

(e) Any city, city and county, or county, upon written notice from the governing body to the department, may cancel its assumption of responsibility for the enforcement of this part. The department, upon receipt of the notice, shall assume responsibility for enforcement of this part in that city, city and county, or county within 30 days.

(f) Every city, county, or city and county, within its jurisdiction, shall enforce this part and the regulations adopted pursuant to this part, as they relate to manufactured homes, mobilehomes, or recreational vehicles and to accessory buildings or structures located in both of the following areas:

(1) Inside of parks while the city, county, or city and county has assumed responsibility for enforcement of the park.

(2) Outside of communities.

(g) This part shall not prevent local authorities of any city, county, or city and county, within the reasonable exercise of their police powers, from doing any of the following:

(1) (A) From establishing, subject to the requirements of Sections 65852.3 and 65852.7 of the Government Code, certain zones for manufactured homes, mobilehomes, manufactured housing communities, and special occupancy parks within the city, county, or city and county, or establishing types of uses and locations, including family manufactured housing communities, senior manufactured housing communities, mobilehome condominiums, mobilehome subdivisions, or mobilehome planned unit developments within the city, county, or city and county, as defined in the zoning ordinance.

(B) From adopting rules and regulations by ordinance or resolution prescribing community perimeter walls or enclosures on public street frontage, signs, access, and vehicle parking.

(C) From prescribing the prohibition of certain uses for manufactured housing communities or special occupancy parks.

(2) From regulating the construction and use of equipment and facilities located outside of a manufactured home, mobilehome, or recreational vehicle used to supply gas, water, or electricity thereto, except facilities owned, operated, and maintained by a public utility, or to dispose of sewage or other waste therefrom when the facilities are located outside a community for which a permit is required by this part or the regulations adopted pursuant thereto.

(3) From requiring a permit to use a manufactured home, mobilehome, or recreational vehicle outside a community for which a permit is required by this part or by regulations adopted pursuant thereto, and from requiring a fee therefor by local ordinance commensurate with the cost of enforcing this part and local ordinance with reference to the use of manufactured homes, mobilehomes, and recreational vehicles, which permit may be refused or revoked if the use violates this part or Part 2 (commencing

with Section 18000), any regulations adopted pursuant thereto, or any local ordinance applicable to that use.

(4) From requiring a local building permit to construct an accessory structure for a manufactured home or mobilehome when the manufactured home or mobilehome is located outside a manufactured housing community, recreational vehicle park, or temporary recreational vehicle park, under circumstances which this part or Part 2 (commencing with Section 18000) or the regulations adopted pursuant thereto do not require the issuance of a permit therefor by the department.

(5) From authorizing the creation, movement, shifting, or alteration of mobilehome park lot lines as specified in Section 18610.5.

(h) (1) A city, including a charter city, county, or city and county, shall not require the average density in a new community to be less than that permitted by the applicable zoning ordinance, plus any density bonus, as defined in Section 65915 of the Government Code, for other forms of affordable housing.

(2) A city, including a charter city, county, or city and county, shall not require a new community to include a clubhouse. Recreational facilities, recreational areas, accessory structures, or improvements may be required only to the extent that the facilities or improvements are required in other types of residential developments containing a like number of residential dwelling units.

(i) The department may, at the department's sole option, enforce plan review activities associated with this part and the rules and regulations adopted thereunder through department-approved plan checking agencies. The department shall adopt regulations for approving and monitoring plan checking agencies, including, but not limited to, all of the following criteria:

(1) Freedom of any conflict of interest.

(2) Qualifications of personnel.

(3) A prohibition against collusive or fraudulent actions related to the performance of activities required by this part.

(4) Establishment of a schedule of fees to offset the department's cost of administering the approval and monitoring activities.

(5) Establishment of procedures for reimbursement to plan checking agencies for plan review services rendered.

(6) Establishment of a schedule of citations and administrative fines issued by the department upon finding a violation of this subdivision on the part of a plan checking agency.

(7) Any other conditions of operation the department may reasonably require.

(j) (1) The department may, by regulation, provide for the qualification of plan checking agencies to perform reviews of plans and specifications for the construction of manufactured housing communities and to perform reviews of plans and specifications for the construction of additional buildings or lots, the alteration of buildings, lots, or other installations, in an existing manufactured

housing community, in areas in which the department is the enforcement agency. The regulations shall specify that all approved plan checking agencies shall employ at least one architect or engineer, licensed by the State of California, and that the architect or engineer shall be responsible for all plan review activity specified in this part. Plans approved by department-approved agencies shall be deemed the equivalent of department approval of those plans.

(2) No agency approved to serve as a plan checking agency pursuant to this subdivision shall have a financial interest in any manufactured housing community, with any owner, developer, or contractor of a manufactured housing community, or in any entity used by the department for the purpose of performing oversight of the performance of plan checking agencies.

SEC. 9. Section 18504 of the Health and Safety Code is amended to read:

18504. Any person responsible for obtaining any of the permits required by this chapter, Chapter 5 (commencing with Section 18600), or the regulations adopted pursuant to either of these chapters, who fails to obtain those permits, shall pay double the fees prescribed in this chapter, Chapter 5 (commencing with Section 18600), or the regulations adopted pursuant to either of these chapters, as applicable.

SEC. 10. Section 18613.7 of the Health and Safety Code is amended to read:

18613.7. A permit shall be obtained by the installer from the enforcement agency each time an earthquake resistant bracing system is installed on any manufactured home or mobilehome. The enforcement agency shall inspect the installation of these bracing systems to ensure compliance with the regulations adopted by the department.

The department shall adopt regulations governing the installation of these bracing systems. The enforcement agency shall adopt a fee schedule which shall not exceed the costs of the issuance of the permit and inspection required by this section.

SEC. 11. Section 8 of this bill incorporates amendments to Section 18300 of the Health and Safety Code proposed by both this bill and Assembly Bill 1537. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1992, (2) each bill amends Section 18300 of the Health and Safety Code, and (3) this bill is enacted after Assembly Bill 1537, in which case Section 7 of this bill shall not become operative.

CHAPTER 507

An act to add Section 6516.5 to the Government Code, relating to public agencies.

[Approved by Governor October 5, 1991. Filed with Secretary of State October 7, 1991.]

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

SECTION 1. Section 6516.5 is added to the Government Code, to read:

6516.5. Notwithstanding any other provision of law, a joint powers agency provided for by a joint powers agreement pursuant to Article 1 (commencing with Section 6500) of this chapter may create risk pooling arrangements for the payment of general liability losses incurred by participants and exhibitors in fair sponsored programs and special events users of fair facilities, provided that the aggregate payments made under each program shall not exceed the amount available in the pool established for that program.

CHAPTER 508

An act to amend Sections 74134, 74136, 74138, 74141, and 74143 of, and to repeal Section 74131.5 of, the Government Code, relating to courts.

[Approved by Governor October 5, 1991. Filed with Secretary of State October 7, 1991]

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

SECTION 1. Section 74131.5 of the Government Code is repealed.

SEC. 2. Section 74134 of the Government Code is amended to read:

74134. In the Riverside Judicial District, the salary of the clerk/administrator—Riverside Judicial District shall be on range 399 and the clerk/administrator may appoint:

(a) One accounting technician on range 237.

(b) One assistant clerk/administrator-Riverside Judicial District on range 350.

(c) One administrative services officer on range 334.

(d) Fifty-four judicial office assistants on range 204.

(e) Five judicial services supervisors on range 264.

(f) Sixteen judicial courtroom assistants on range 245.

(g) One departmental information systems coordinator on range 318.

(h) One executive secretary I on range 257.
(i) Four senior accounting clerks on range 207.
(j) One senior accounting technician on range 272.
(k) Seven senior judicial office assistants on range 225.
(*l*) One stock clerk on range 181.
(m) One judicial secretary on range 257.
(n) One municipal court operations manager on range 327.
(o) One senior court reporter on range 358.

SEC. 3. Section 74136 of the Government Code is amended to read:

74136. In the Desert Judicial District, the salary of the clerk/administrator—Desert Judicial District shall be on range 399 and the clerk/administrator may appoint:
(a) One accounting clerk on range 176.
(b) One accounting technician on range 237.
(c) One assistant clerk/administrator—Desert Judicial District on range 350.
(d) Four court reporters at one thousand seven hundred seventy-nine dollars and twenty cents ($1,779.20) biweekly.
(e) Three municipal court branch administrators I on range 280.
(f) Forty-six judicial office assistants on range 204.
(g) Seven judicial services supervisors on range 264.
(h) Nine judicial courtroom assistants on range 245.
(i) One executive secretary I on range 257.
(j) Two senior accounting clerks on range 207.
(k) Eight senior judicial office assistants on range 225.

SEC. 4. Section 74138 of the Government Code is amended to read:

74138. In the Corona Judicial District, the Riverside clerk/administrator may appoint:
(a) One assistant clerk/administrator on range 315.
(b) Fourteen judicial office assistants on range 204.
(c) Three judicial services supervisors on range 264.
(d) Four judicial courtroom assistants on range 245.
(e) One senior accounting clerk on range 207.
(f) Three senior judicial office assistants on range 225.

SEC. 5. Section 74141 of the Government Code is amended to read:

74141. In the Mt. San Jacinto Judicial District the salary of the clerk/administrator—Mt. San Jacinto Judicial District shall be on range 378, and the clerk/administrator may appoint:
(a) One accounting technician on range 237.
(b) One assistant clerk/administrator-mid-county on range 350.
(c) Two municipal court branch administrators II on range 315.
(d) Nineteen judicial office assistants on range 204.
(e) Three judicial services supervisors on range 264.
(f) Seven judicial courtroom assistants on range 245.
(g) One senior accounting clerk on range 207.
(h) Two senior judicial office assistants on range 225.

(i) One executive secretary I on range 257.
(j) One administrative services officer on range 334.

SEC. 6. Section 74143 of the Government Code is amended to read:

74143. In the Three Lakes Judicial District, the salary of the clerk/administrator—Three Lakes Judicial District shall be on range 378, and the clerk/administrator may appoint:

(a) One municipal court branch administrator II on range 280.
(b) Eighteen judicial office assistants on range 204.
(c) Three judicial services supervisors on range 264.
(d) Four judicial courtroom assistants on range 245.
(e) One senior judicial office assistant on range 225.
(f) One senior judicial courtroom assistant on range 260.

SEC. 7. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because this act is in accordance with the request of a local agency or school district which desired legislative authority to carry out the program specified in this act. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 509

An act to amend Sections 830.6 and 832 of the Penal Code, relating to peace officers.

[Approved by Governor October 5, 1991 Filed with Secretary of State October 7, 1991.]

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

SECTION 1. Section 830.6 of the Penal Code is amended to read:

830.6. (a) (1) Whenever any qualified person is deputized or appointed by the proper authority as a reserve or auxiliary sheriff or city police officer, a reserve deputy sheriff, a reserve police officer of a regional park district or of a transit district, a reserve deputy of the Department of Fish and Game, a reserve special agent of the Department of Justice, a reserve officer of a community service district which is authorized under subdivision (h) of Section 61600 of the Government Code to maintain a police department or other police protection, or a reserve officer of a police protection district formed under Part 1 (commencing with Section 20000) of Division 14 of the Health and Safety Code, and is assigned specific police functions by that authority, the person is a peace officer; provided, the person qualifies as set forth in Section 832.6, and provided further, that the authority of the person as a peace officer shall extend only for the duration of the person's specific assignment. A

transit district reserve officer may carry firearms only if authorized by, and under those terms and conditions as are specified by, his or her employing agency.

(2) Whenever any qualified person is deputized or appointed by the proper authority as a reserve or auxiliary sheriff or city police officer, a reserve deputy sheriff, or a reserve police officer of a regional park district or of a transit district, and is so designated by local ordinance or, if the local agency is not authorized to act by ordinance, by resolution, either individually or by class, and is assigned to the prevention and detection of crime and the general enforcement of the laws of this state by that authority, the person is a peace officer; provided the person qualifies as set forth in paragraph (1) of subdivision (a) of Section 832.6, and provided further, that the authority of the person shall include the full powers and duties of a peace officer as provided by Section 830.1, or in the case of a transit district reserve police officer, the powers and duties which are authorized in Section 830.33.

(b) Whenever any person is summoned to the aid of any uniformed peace officer, the summoned person shall be vested with the powers of a peace officer as are expressly delegated to him or her by the summoning officer or as are otherwise reasonably necessary to properly assist the officer.

SEC. 2. Section 832 of the Penal Code is amended to read:

832. (a) Every person described in this chapter as a peace officer shall satisfactorily complete an introductory course of training prescribed by the Commission on Peace Officer Standards and Training. On or after July 1, 1989, satisfactory completion of the course shall be demonstrated by passage of an appropriate examination developed or approved by the commission. Training in the carrying and use of firearms shall not be required of any peace officer whose employing agency prohibits the use of firearms.

(b) (1) Every peace officer described in this chapter, prior to the exercise of the powers of a peace officer, shall have satisfactorily completed the course of training described in subdivision (a).

(2) Every peace officer described in Section 13510 or in subdivision (a) of Section 830.2 may satisfactorily complete the training required by this section as part of the training prescribed pursuant to Section 13510.

(c) Persons described in this chapter as peace officers who have not satisfactorily completed the course described in subdivision (a), as specified in subdivision (b), shall not have the powers of a peace officer until they satisfactorily complete the course.

(d) Any peace officer who, on March 4, 1972, possesses or is qualified to possess the basic certificate as awarded by the Commission on Peace Officer Standards and Training shall be exempted from this section.

(e) (1) Any person completing the training described in subdivision (a) who does not become employed as a peace officer within three years from the date of passing the examination

described in subdivision (a), or who has a three-year or longer break in service as a peace officer, shall pass the examination described in subdivision (a) prior to the exercise of the powers of a peace officer, except for any person described in paragraph (2).

(2) The requirement in paragraph (1) does not apply to any person who meets any of the following requirements:

(A) Is returning to a management position that is at the second level of supervision or higher.

(B) Has successfully requalified for a basic course through the Commission on Peace Officer Standards and Training.

(C) Has maintained proficiency through teaching the course described in subdivision (a).

(D) During the break in California service, was continuously employed as a peace officer in another state or at the federal level.

(f) The commission may charge appropriate fees for the examination required by subdivision (e), not to exceed actual costs.

CHAPTER 510

An act to amend Section 72 of the Revenue and Taxation Code, relating to property taxation.

[Approved by Governor October 5, 1991. Filed with Secretary of State October 7, 1991]

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

SECTION 1. Section 72 of the Revenue and Taxation Code is amended to read:

72. (a) A copy of any building permit issued by any city, county, or city and county shall be transmitted by each such entity to the county assessor as soon as possible after the date of issuance.

(b) A copy of any certificate of occupancy or other document showing date of completion of new construction issued or finalized by any city, county, or city and county, shall be transmitted by each entity to the county assessor within 30 days after the date of issuance or finalization.

(c) At the time an assessee files, or causes to be filed, an approved set of building plans with the city, county, or city and county, a scale copy of the floor plans and exterior dimensions of the building designated for the county assessor shall be filed by the assessee or his or her designee. The scale copy shall be in sufficient detail to allow the assessor to determine the square footage of the building and, in the case of a residential building, the intended use of each room. An assessee, or his or her designee, where multiple units are to be constructed from the same set of building plans, may file only one scale copy of floor plans and exterior dimensions, so long as each application for a building permit with respect to those building plans

specifically identifies the scale copy filed pursuant to this section. However, where the square footage of any one of the multiple units is altered, an assessee, or his or her designee, shall file a scale copy of the floor plan and exterior dimensions that specifically identifies the alteration from the previously filed scale copy. The receiving authority shall transmit that copy to the county assessor as soon as possible after the final plans are approved.

SEC. 2. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 511

An act to amend Section 16991 of the Welfare and Institutions Code, relating to health services, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 5, 1991. Filed with Secretary of State October 7, 1991]

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

SECTION 1. Section 16991 of the Welfare and Institutions Code is amended to read:

16991. (a) The sum of twenty-six million five hundred ninety-seven thousand dollars ($26,597,000) is appropriated from the General Fund to the department, for the 1989–90 fiscal year, to be allocated to each county receiving funds pursuant to subdivision (d) of Section 16703. Each county's maximum allocation under this section shall be determined as follows:

(1) The sum of one hundred twenty-six million five hundred ninety-seven thousand dollars ($126,597,000) shall be multiplied by each county's percentage determined by subdivision (d) of Section 16703.

(2) For each county, the percentage of persons newly legalized under the Immigration Reform and Control Act of 1986 (IRCA) who are residents of that county divided by the total of all IRCA newly legalized persons for all counties eligible to receive funds pursuant to this section shall be determined. The department shall utilize the

most recent data from the federal Department of Health and Human Services for this purpose.

(3) Each county's percentage determined in paragraph (2) shall then be multiplied by one hundred twenty-six million five hundred ninety-seven thousand dollars ($126,597,000).

(4) For each county, the amount determined in paragraph (3) shall be subtracted from the amount determined in paragraph (1). If the resulting amount is negative, no funds shall be allocated to that county. If the resulting amount is positive, that amount shall be the county's maximum allocation and shall be made available to that county in the same manner and according to the same procedures and requirements that govern funds made available pursuant to subdivision (d) of Section 16703, except that the department shall make the payment of each county's allocation as determined above in one lump sum on or before January 1, 1990.

(5) For purposes of computing fiscal year 1989–90 reimbursements under this section, if the sum of funding that a county received from its allocation pursuant to Section 16703, the amount of reimbursement it received from federal State Legalization Impact Assistance Grant funding for indigent care, and its share of funding provided in this section is less than the amount of funding the county received pursuant to Section 16703 in fiscal year 1988–89 the state shall reimburse the county for the amount of the difference. For purposes of computing reimbursements under this section, if the sum of funding that a county received from its fiscal year 1990–91 allocation pursuant to Section 16703, and the amount received from State Legalization Impact Assistance Grant funds, plus the amount of the reductions made pursuant to subdivision (b) of Section 1 of Chapter 1323 of the Statutes of 1990 and Chapter 467 of the Statutes of 1990, is less than the amount of funding a county received pursuant to Section 16703 in the 1988–89 fiscal year, the state shall reimburse the difference. If the department determines that the county has not made reasonable efforts to document and claim federal SLIAG funding for indigent care, the department shall deny the reimbursement.

(6) The calculations specified in paragraph (5) shall be performed after the end of the fiscal year after all claims from a county for that fiscal year have been adjudicated. For fiscal year 1989–90, claims for funding pursuant to this section shall be submitted no later than April 30, 1992, and, if approved by the department, shall be reimbursed no later than June 30, 1992. For fiscal year 1990–91, claims for funding pursuant to this section shall be submitted no later than April 30, 1993, and, if approved by the department, shall be reimbursed no later than June 30, 1993.

(7) If a county submits additional claims for services provided in a specific year and has received funds under paragraph (5) for that year, the department shall reimburse the General Fund up to amount received under paragraph (5) from federal State Legalization Impact Assistance Grant funds otherwise payable to the

county based upon the additional claims.

(b) In determining if a county has made reasonable efforts to document and claim federal State Legalization Impact Assistance Grant funding, the department may require a county to utilize statistically valid sampling methods or to utilize the federal Cost Documentation System for Social Security matching.

(c) To the extent allowed by federal law, the department shall make quarterly prospective payments of federal State Legalization Impact Assistance Grant funds to counties for the 1988–89, 1989–90, and 1990–91 fiscal years SLIAG claims for indigent health services. Prospective payments shall not exceed the total amount of a county's 1987–88 fiscal year claim, as adjusted by the department, on an annualized basis. As a condition of receiving a prospective payment, the county shall certify that it intends to submit claims exceeding the amount of the payments. A county shall be liable for any overpayments or federal sanctions in the event of an excess drawdown of federal State Legalization Impact Assistance Grant funds.

(d) A county may apply for, and the Department of Finance may approve, a state General Fund loan in the 1989–90 fiscal year to meet anticipated shortfalls in its Medically Indigent Services Program. In order to receive funds, the county shall demonstrate to the Department of Finance that the county will not submit 1989–90 fiscal year claims totaling more than 50 percent of its estimated SLIAG amount as determined by its percentage of the newly legalized population multiplied by the amount of total SLIAG funds available. The county shall also demonstrate that the county has made reasonable efforts to document and claim federal SLIAG funds as defined in paragraph (7) of subdivision (a). In no event shall the loan amount exceed 50 percent of a county's percentage of the newly legalized population multiplied by the amount of total SLIAG funds available, or exceed the amount to which the county is entitled pursuant to paragraph (5) of subdivision (a). The loan shall be issued to the county, as soon as possible after the enactment of Assembly Bill 1154 of the 1989–90 Regular Session of the Legislature, but no later than June 30, 1990. The loan balance shall be credited in the amount of funds provided pursuant to paragraph (5) of subdivision (a) upon receipt of the funds. Repayment shall include interest calculated at the rate earned by the Pooled Money Investment Account.

SEC. 2. The sum of fifteen million eight hundred thousand dollars ($15,800,000) is appropriated from the General Fund to the State Department of Health Services for payment of fiscal year 1989–90 claims for funding pursuant to Section 16991 of the Welfare and Institutions Code. This appropriation shall be available for expenditure until June 30, 1992.

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

In order to continue the orderly administration of the medically indigent services program funded in whole or in part through the allocations authorized pursuant to Section 16703 of the Welfare and Institutions Code in a timely manner, it is necessary that this act take effect immediately.

CHAPTER 512

An act to amend Section 12022.3 of the Penal Code, relating to sentence enhancements.

[Approved by Governor October 5, 1991. Filed with Secretary of State October 7, 1991.]

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

SECTION 1. Section 12022.3 of the Penal Code is amended to read:

12022.3. For each violation of Section 261, 262, 264.1, 286, 288, 288a, or 289, and in addition to the sentence provided, any person shall receive the following:

(a) A three-, four-, or five-year enhancement if the person uses a firearm or any other deadly weapon in the commission of the violation.

(b) A one-, two-, or three-year enhancement if the person is armed with a firearm or any other deadly weapon. The court shall order the middle term unless there are circumstances in aggravation or mitigation. The court shall state the reasons for its enhancement choice on the record at the time of the sentence.

CHAPTER 513

An act to amend Section 5306 of the Food and Agricultural Code, relating to pest control.

[Approved by Governor October 5, 1991. Filed with Secretary of State October 7, 1991.]

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

SECTION 1. Section 5306 of the Food and Agricultural Code is amended to read:

5306. (a) It is unlawful for any person to refuse to comply with any quarantine regulation which is established by the director pursuant to this division.

(b) It is unlawful for any person to possess, propagate, plant, process, sell, or take any other action with regard to a plant or thing

subject to a quarantine which has been imported or moved in violation of the quarantine.

(c) Notwithstanding Section 5309, any violation of this section is a misdemeanor.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 514

An act to add Section 13404 to the Business and Professions Code, and to amend Section 216 of the Public Utilities Code, relating to public utilities, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 5, 1991 Filed with Secretary of State October 7, 1991]

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

SECTION 1. Section 13404 is added to the Business and Professions Code, to read:

13404. The sale of compressed natural gas by persons who sell compressed natural gas at retail to the public for use only as a motor vehicle fuel, and who are exempted from public utility status by subdivision (f) of Section 216 of the Public Utilities Code, is a sale of a motor fuel for the purposes of this chapter.

SEC. 2. Section 216 of the Public Utilities Code is amended to read:

216. (a) "Public utility" includes every common carrier, toll bridge corporation, pipeline corporation, gas corporation, electrical corporation, telephone corporation, telegraph corporation, water corporation, sewer system corporation, and heat corporation, where the service is performed for, or the commodity is delivered to, the public or any portion thereof.

(b) Whenever any common carrier, toll bridge corporation, pipeline corporation, gas corporation, electrical corporation, telephone corporation, telegraph corporation, water corporation, sewer system corporation, or heat corporation performs a service for, or delivers a commodity to, the public or any portion thereof for which any compensation or payment whatsoever is received, that

common carrier, toll bridge corporation, pipeline corporation, gas corporation, electrical corporation, telephone corporation, telegraph corporation, water corporation, sewer system corporation, or heat corporation, is a public utility subject to the jurisdiction, control, and regulation of the commission and the provisions of this part.

(c) When any person or corporation performs any service for, or delivers any commodity to, any person, private corporation, municipality, or other political subdivision of the state, which in turn either directly or indirectly, mediately or immediately, performs that service for, or delivers that commodity to, the public or any portion thereof, that person or corporation is a public utility subject to the jurisdiction, control, and regulation of the commission and the provisions of this part.

(d) Ownership or operation of a facility which employs cogeneration technology or produces power from other than a conventional power source or the ownership or operation of a facility which employs landfill gas technology does not make a corporation or person a public utility within the meaning of this section solely because of the ownership or operation of such a facility.

(e) Any corporation or person engaged directly or indirectly in developing, producing, transmitting, distributing, delivering, or selling any form of heat derived from geothermal or solar resources or from cogeneration technology to any privately owned or publicly owned public utility, or to the public or any portion thereof, is not a public utility within the meaning of this section solely by reason of engaging in any of those activities.

(f) The ownership or operation of a facility which sells compressed natural gas at retail to the public for use only as a motor vehicle fuel, and the selling of compressed natural gas at retail from such a facility to the public for use only as a motor vehicle fuel, does not make the corporation or person a public utility within the meaning of this section solely because of that ownership, operation, or sale.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

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

Legislation which exempts from public utility regulation the sale for resale of compressed natural gas to fuel motor vehicles and,

instead, regulates the selling of that gas in the same manner as other motor fuels is needed immediately to accelerate the introduction into the California market of natural gas fueled vehicles and to comply with the California Air Resources Board regulations concerning the use of low-emission transportation fuels, including compressed natural gas. Therefore, it is necessary that this act take effect immediately.

CHAPTER 515

An act to amend Section 636.5 of the Penal Code, relating to crime.

[Approved by Governor October 5, 1991. Filed with Secretary of State October 7, 1991.]

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

SECTION 1. Section 636.5 of the Penal Code is amended to read:

636.5. Any person not authorized by the sender, who intercepts any police radio service communication, by use of a scanner or any other means, for the purpose of using that communication to assist in the commission of a criminal offense or to avoid or escape arrest, trial, conviction, or punishment or who divulges to any person he or she knows to be a suspect in the commission of any criminal offense, the existence, contents, substance, purport, effect or meaning of that communication concerning the offense with the intent that the suspect may avoid or escape from arrest, trial, conviction, or punishment is guilty of a misdemeanor.

Nothing in this section shall preclude prosecution of any person under Section 31 or 32.

As used in this section "police radio service communication" means a communication authorized by the Federal Communications Commission to be transmitted by a station in the police radio service.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 516

An act to amend Sections 73566, 73567, and 73568 of the Government Code, relating to courts.

[Approved by Governor October 5, 1991 Filed with Secretary of State October 7, 1991]

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

SECTION 1. Section 73566 of the Government Code is amended to read:

73566. The number of positions within each job classification which may be filled by appointment by the municipal court administrator, and the salary which constitutes the compensation for each job classification, are as follows; provided, however, that the board of supervisors may adjust the monthly salary pursuant to Section 73568, and may adjust the number and classification of positions pursuant to Section 73569:

Number	Classification	Monthly salary
2	Assistant Municipal Court Clerk/ Administrator	$3,688
1	Administrative Services Officer	$2,901–$3,594
2	Municipal Court Division Manager I	$2,473–$3,064
2	Municipal Court Calendar Coordinator	$2,161–$2,678
1	Supervising Departmental Data-Processing Coordinator	$2,087–$2,586
2	Accounting Technician	$1,937–$2,399
3	Senior Account Clerk	$1,667–$2,065
6	Account Clerk	$1,457–$1,805
7	Municipal Court Clerk Supervisor	$1,976–$2,448
20	Senior Municipal Court Clerk	$1,643–$2,035
38.5	Municipal Court Clerk II	$1,457–$1,805
13	Courtroom Clerk	$1,879–$2,328
5	Court Interpreter	$1,735–$2,150
1	Senior Court Interpreter	$1,976–$2,448
2	Senior Secretary (Confidential)	$1,976–$2,448
1	Secretary	$1,701–$2,107
2	Senior Data Entry Operator	$1,618–$2,005

SEC. 2. Section 73567 of the Government Code is amended to read:

73567. Whenever reference to a salary other than that of commissioner is made in any section of this article, the schedule of salaries found in the salary and benefits resolution of the County of Monterey in effect on January 1, 1991, shall apply; provided, however, that adjustments to the salaries may be made pursuant to

Section 73568.

SEC. 3. Section 73568 of the Government Code is amended to read:

73568. Certain classes of positions prescribed in this article are deemed to be equivalent in job and salary level to certain classes of positions of Monterey County. In order to maintain parity of compensation and employee benefits between attachés of the municipal court and county employees having commensurate duties and responsibilities and to provide appropriate salary adjustments and employee benefits for related classes of court positions this section shall govern salary adjustments and employee benefits for attachés of the municipal court in Monterey County.

On the effective date of any amendment to a resolution adjusting the salary of a county employee classification listed in the table of positions set forth in this section, the salary of the equivalent court position listed opposite thereto shall be adjusted an equivalent amount.

Any adjustments made pursuant to this section shall be effective on the operative date of the county salary and benefits resolution and shall remain in effect only until January 1, of the second year following the year in which the change is made, unless subsequently ratified by the Legislature.

Table of Positions

Court Classification	County Classification
Municipal Court Clerk/ Administrator	
Assistant Municipal Court Clerk/Administrator	
Administrative Services Officer	Administrative Services Officer
Municipal Court Division Manager	Administrative Services Officer
Municipal Court Calendar Coordinator	Legal Process Clerk, plus 79 ranges
Supervising Departmental Data-Processing Coordinator	Supervising Departmental Data-Processing Coordinator
Accounting Technician	Accounting Technician
Senior Account Clerk	Senior Account Clerk
Account Clerk	Account Clerk
Municipal Court Clerk Supervisor	Legal Process Clerk, plus 61 ranges
Senior Municipal Court Clerk	Legal Process Clerk, plus 24 ranges
Municipal Court Clerk II	Legal Process Clerk
Courtroom Clerk	Courtroom Clerk
Court Interpreter	Legal Process Clerk, plus 35 ranges

Senior Court Interpreter	Legal Process Clerk, plus 61 ranges
Senior Secretary (Confidential)	Senior Secretary (Confidential)
Secretary	Secretary
Senior Data Entry Operator	Senior Data Entry Operator

Attachés of the municipal court district shall be entitled to all employee benefits that are provided for or made applicable to the equivalent Monterey County employee classification, including, but not limited to, anniversary dates, changes thereto, and step advancements.

Whenever reference is made to a number of salary ranges in any section of this article, that reference shall be to ranges listed in the salary and benefits resolution of the County of Monterey in effect January 1, 1988.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because this act is in accordance with the request of a local agency or school district which desired legislative authority to carry out the program specified in this act. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 517

An act to amend Sections 7502.1, 7502.2, 7503, 7503.10, 7504, 7506.9, 7506.10, 7507.9, 7507.10, 7511, 7550.10, and 7599.54 of the Business and Professions Code, relating to repossessors.

[Approved by Governor October 5, 1991. Filed with Secretary of State October 7, 1991.]

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

SECTION 1. Section 7502.1 of the Business and Professions Code is amended to read:

7502.1. (a) Any person who violates any provision of this chapter, or who conspires with another person to violate any provision of this chapter, or who knowingly engages a nonexempt unlicensed person to repossess personal property on his or her behalf after being duly notified by the bureau in writing of the nonexempt unlicensed person's unlicensed status with the bureau, is guilty of a misdemeanor, and is punishable by a fine of five thousand dollars ($5,000), or by imprisonment in the county jail for not more than one year, or by both the fine and imprisonment.

(b) A proceeding to impose the penalties specified in subdivision (a) may be brought in any court of competent jurisdiction in the name of the people of the State of California by the Attorney General or by any district attorney or city attorney, or with the consent of the district attorney, by the city prosecutor in any city or city and county having a full-time city prosecutor, for the jurisdiction in which the violation occurred. If the action is brought by a district attorney, the penalty collected shall be paid to the treasurer of the county in which the judgment is entered. If the action is brought by a city attorney or city prosecutor, one-half of the penalty collected shall be paid to the treasurer of the city in which the judgment was entered and one-half to the treasurer of the county in which the judgment was entered. If the action is brought by the Attorney General, all of the penalty collected shall be deposited in the Private Investigator Fund.

SEC. 2. Section 7502.2 of the Business and Professions Code is amended to read:

7502.2. Any financial institution that knowingly engages a nonexempt unlicensed person to repossess personal property on its behalf, after being duly notified by the bureau in writing of the nonexempt unlicensed person's unlicensed status with the bureau, is guilty of a misdemeanor, and is punishable by a fine of five thousand dollars ($5,000).

(b) A proceeding to impose the fine specified in subdivision (a) may be brought in any court of competent jurisdiction in the name of the people of the State of California by the Attorney General or by any district attorney or city attorney, or with the consent of the district attorney, by the city prosecutor in any city or city and county having a full-time city prosecutor, for the jurisdiction in which the violation occurred. If the action is brought by a district attorney, the penalty collected shall be paid to the treasurer of the county in which the judgment is entered. If the action is brought by a city attorney or city prosecutor, one-half of the penalty collected shall be paid to the treasurer of the city in which the judgment was entered and one-half to the treasurer of the county in which the judgment was entered. If the action is brought by the Attorney General, all of the penalty collected shall be deposited in the Private Investigator Fund.

SEC. 3. Section 7503 of the Business and Professions Code is amended to read:

7503. An application for a repossession agency license shall be made in writing to, and filed with, the bureau in the form that may be required by the director and shall be accompanied by the original license fee prescribed by this chapter. The director may require the submission of any other pertinent information, evidence, statements, or documents.

Every application for a repossession agency license shall state, among other things that may be required, the name of the applicant and the name under which the applicant will do business, the location by number and street and city of the office of the business for which the license is sought, and the usual business hours the

business will maintain. The applicant's residence address, residence telephone number, and driver's license number, if requested, shall be confidential pursuant to the Information Practices Act of 1977 (Chapter 1 (commencing with Section 1798) of Title 1.8 of Part 4 of Division 3 of the Civil Code) and shall not be released to the public.

No license shall be issued in any fictitious name which may be confused with or which is similar to any federal, state, county, or municipal governmental function or agency, or in any name which may tend to describe any business function or enterprise not actually engaged in by the applicant, or in any name which is the same as or so similar to that of any existing licensee as would tend to deceive the public, or in any name which would otherwise tend to be deceptive or misleading.

SEC. 4. Section 7503.10 of the Business and Professions Code is amended to read:

7503.10. All repossession agency licenses which expire on or after January 1, 1985, shall be placed on a cyclical renewal and shall expire one year following the date of issuance or assigned renewal date. In order to implement the cyclical renewal, the population of licensees shall be divided into 12 equal groups, the licenses of those in each group to expire on the last day of each successive month. Notwithstanding any other provision of law, the bureau shall have authority to extend or shorten the first term of licensure following January 1, 1985, and to prorate the required license fee in order to implement this cyclical renewal. At least 60 days prior to the expiration of the license, the bureau shall mail to the licensee a renewal form prescribed by the director. To renew an unexpired license, the licensee shall complete and mail the renewal form to the bureau, pay any and all fines assessed pursuant to Section 7501.7 and resolved in accordance with the provisions of that section, and pay the renewal fee prescribed by this chapter.

Upon the issuance of the initial license or renewal license, the bureau shall issue to the licensee a suitable pocket identification card which includes a photograph of the licensee. The photograph shall be of a size prescribed by the bureau. The card shall contain the name of the licensee's company.

SEC. 5. Section 7504 of the Business and Professions Code is amended to read:

7504. (a) Except as otherwise provided in this chapter, an applicant for a qualification certificate shall comply with all of the following:

(1) Be at least 18 years of age.

(2) Have been, for at least two years of lawful experience, during the five years preceding the date on which his or her application is filed, an employee of a licensed repossession agency within this state, or have had two years of lawful experience in recovering personal property sold under a security agreement within this state. Lawful experience shall mean experience in recovering personal property sold under a security agreement as a registrant pursuant to this

chapter or as a salaried employee of a financial institution or vehicle dealer.

Two years' experience shall consist of not less than 4,000 hours of actual compensated work performed by the applicant preceding the filing of an application.

An applicant shall substantiate the claimed hours of qualifying experience and the exact details as to the character and nature thereof by written certifications from the employer, subject to independent verification by the director as he or she may determine. In the event of inability of an applicant to supply the written certifications from the employer in whole or in part, applicants may offer other written certifications from persons other than employers substantiating employment for consideration by the director.

(3) Complete and forward to the bureau a qualified certificate holder application which shall be on a form prescribed by the director. The application shall be accompanied by two recent photographs of the applicant, of a type prescribed by the director, and two classifiable sets of his or her fingerprints. The applicant's residence address, residence telephone number, and driver's license number, if requested, shall be confidential pursuant to the Information Practices Act of 1977 (Chapter 1 (commencing with Section 1798) of Title 1.8 of Part 4 of Division 3 of the Civil Code) and shall not be released to the public.

(4) Pass the required examination.

(5) Pay the required application and examination fees to the bureau.

The amendments made to this section during the 1990 portion of the 1989–90 Regular Session shall only apply to applications filed on or after January 1, 1992.

(b) Upon the issuance of the initial qualification certificate or renewal qualification certificate, the bureau shall issue to the certificate holder a suitable pocket identification card which includes a photograph of the certificate holder. The photograph shall be of a size prescribed by the bureau. The card shall contain the name of the licensee with whom the certificate holder is employed.

SEC. 6. Section 7506.9 of the Business and Professions Code is amended to read:

7506.9. (a) Upon the issuance of the initial registration or reregistration, the chief shall issue to the registered employee a suitable pocket identification card which includes a photograph of the registrant. The photograph shall be of a size prescribed by the bureau. The card shall contain the name of the licensee with whom the registrant is employed.

(b) Until the registration certificate is issued or denied, an employee may be assigned to work with a temporary registration which has been embossed by the bureau with the state seal for a period not to exceed 90 days from the date employment commenced.

(c) Until the registration certificate is issued or denied, an

employee who was a registrant of the licensed agency within the past 30 days may return to the agency and be assigned to work with a temporary registration which has been issued by the qualified certificate holder for a period not to exceed 30 days, provided the employee signs a declaration under penalty of perjury that he or she has not been convicted of a felony or any other act constituting grounds for denial of a registration pursuant to Section 7506.8, and that he or she has read and understands the provisions of this chapter.

(d) No employee of a licensee shall perform the duties of a repossessor employee for a licensee unless the employee has in his or her possession a valid repossessor employee registration card or evidence of a valid temporary registration as described in subdivision (b) or (c).

SEC. 7. Section 7506.10 of the Business and Professions Code is amended to read:

7506.10. (a) Every registration which expires on or after January 1, 1985, shall be placed on a cyclical renewal and shall expire one year following the date of issuance or assigned renewal date. In order to implement cyclical renewal, the population of registrants shall be divided into 12 equal groups, the licenses of those in each group to expire on the last day of each successive month.

Notwithstanding any other provision of law, the bureau shall have authority to extend or shorten the first term of licensure following January 1, 1985, and to prorate the required license fee in order to implement this cyclical renewal.

(b) All registrations issued on or before the effective date of this section shall expire on December 31, 1984, and every year thereafter, unless renewed as provided in this section, except for those registrations issued on or after January 1, 1984, which shall expire on December 31, 1985, and every year thereafter, unless renewed as provided in this section.

(c) At least 60 days prior to the expiration, the bureau shall mail a renewal form to the registrant at the licensee's place of business. A registrant who desires to renew his or her registration shall forward to the bureau for each registration the properly completed renewal form obtained from the bureau, with the renewal fee prescribed by this chapter, for renewal of his or her registration.

(d) A licensee shall provide to his or her employees information regarding procedures for renewal of registration.

(e) A registration that is not renewed within one year after its expiration may not be renewed. The renewal fee for a renewal after expiration shall be the same as a renewal fee and any applicable penalties. Registrants working with expired registrations shall pay all accrued fees and penalties prior to renewal or reregistration.

(f) Upon renewal, evidence of renewal, as the director may prescribe, shall be issued to the registrant. If evidence of renewal has not been delivered to the registrant prior to the date of expiration, the registrant may present evidence of renewal to substantiate continued registration for a period not to exceed 60 days after the

date of expiration.

(g) A registration shall not be renewed until any and all fines assessed pursuant to this chapter and not resolved in accordance with this chapter have been paid.

SEC. 8. Section 7507.9 of the Business and Professions Code is amended to read:

7507.9. If personal effects or other personal property, not covered by a security agreement, are contained in or on personal property at the time it is recovered, the effects shall be removed from the property subject to the security interest, a complete and accurate inventory shall be made, and the personal effects shall be stored in a labeled container by the licensee at the location of the licensed agency as reflected in the records of the bureau for a minimum of 60 days in a secure manner, except those personal effects removed by or in the presence of the registered owner at the time the personal property was being repossessed.

(a) The date and time the inventory is made shall be indicated and shall be signed by the repossession agency employee who performs the inventory.

(b) The following items of personal effects are items determined to present a danger or health hazard when recovered by the licensee and shall be disposed of in the following manner:

(1) Deadly weapons and dangerous drugs shall be turned over to a local law enforcement agency for retention. These items shall be entered on the inventory and a notation shall be made as to the date and the time and the place the deadly weapon or dangerous drug was turned over to the law enforcement agency, and a receipt from the law enforcement agency shall be maintained in the records of the repossession agency.

(2) Combustibles shall be inventoried and noted as "disposed of, dangerous combustible," and the item shall be disposed of in a reasonable and safe manner.

(3) Food and other health hazard items shall be inventoried and noted as "disposed of, health hazard," and disposed of in a reasonable and safe manner.

(c) Personal effects may be disposed of after being held for at least 60 days. The inventory, and adequate information as to how, when, and to whom the personal effects were disposed of, shall be filed in the permanent records of the licensee.

(d) The inventory shall include the name, address, business hours, and phone number of the person at the repossession agency to contact for recovering the personal effects and an itemization of all personal effect storage charges that will be made by the repossession agency. The inventory shall also include the following statement: "Please be advised that the property listed on this inventory will be disposed of by the repossession agency after being held for 60 days from the date of this notice IF UNCLAIMED."

(e) The inventory shall be provided to a consumer not later than 48 hours after the recovery of personal property, except that if:

(1) The 48-hour period encompasses a Saturday, Sunday, or postal holiday, the inventory shall be provided no later than 72 hours after the recovery of personal property.

(2) The 48-hour period encompasses a Saturday or Sunday and a postal holiday, the inventory shall be provided no later than 96 hours after the recovery of personal property.

(3) Inventory resulting from repossession of a yacht, motor home, or travel trailer is such that it shall take at least four hours to inventory, then the inventory shall be provided no later than 96 hours after the recovery of personal property. When the 96-hour period encompasses a Saturday, Sunday, or postal holiday, the inventory shall be provided no later than 120 hours after the recovery of personal property.

(f) The notice may be given by regular mail addressed to the last known address of the consumer or by personal service at the option of the repossession agency.

SEC. 9. Section 7507.10 of the Business and Professions Code is amended to read:

7507.10. Each licensee shall serve a consumer with a notice of seizure as soon as possible after the recovery of personal property and not later than 48 hours, except that if the 48-hour period encompasses a Saturday, Sunday, or postal holiday, the notice of seizure shall be provided not later than 72 hours or, if the 48-hour period encompasses a Saturday or Sunday and a postal holiday, the notice of seizure shall be provided not later than 96 hours, after the repossession of personal property, which notice shall include all of the following:

(a) The name, address, and phone number of the representative of the legal owner to be contacted regarding the repossession.

(b) The name, address, and phone number of the representative of the repossession agency to be contacted regarding the repossession.

(c) A statement printed on the notice containing the following: "Repossessors are regulated by the Bureau of Collection and Investigative Services, Department of Consumer Affairs, Sacramento, CA 95814. Repossessors are required to provide you, not later than 48 hours after the recovery of personal property, with an inventory of personal effects or personal property recovered during repossession unless the 48-hour period encompasses a Saturday, Sunday, or a postal holiday, then the inventory shall be provided no later than 96 hours after the recovery of personal property."

(d) A disclosure that "Damage to a vehicle during or subsequent to a repossession and only while the vehicle is in possession of the repossession agency and which is caused by the repossession agency is the liability of the repossession agency. A mechanical failure shall not be the responsibility of the repossession agency unless the failure is due to the negligence of the repossession agency."

The notice may be given by regular mail addressed to the last known address of the consumer or by personal service at the option

of the repossession agency.

SEC. 10. Section 7511 of the Business and Professions Code is amended to read:

7511. The fees prescribed by this chapter are as follows:

(a) The application fee for an original repossession agency license is seven hundred fifty dollars ($750).

(b) The application fee for an original qualification certificate is two hundred fifty dollars ($250).

(c) The renewal fee for a repossession agency license is four hundred fifty dollars ($450) annually.

(d) The renewal fee for a license as a qualified certificate holder is two hundred dollars ($200) annually.

(e) Notwithstanding Section 163.5, the reinstatement fee for a repossession agency license required pursuant to Sections 7503.11 and 7505.3 is the amount equal to the renewal fee plus a penalty of 50 percent.

(f) Notwithstanding Section 163.5, the reinstatement fee for a license as a qualified certificate holder required pursuant to Sections 7504.7 and 7503.11 is the amount equal to the renewal fee plus a penalty of 50 percent.

(g) The fee for reexamination of an applicant or the applicant's qualified certificate holder is ten dollars ($10).

(h) An initial repossessor employee registration fee is fifty-five dollars ($55), a repossessor employee reregistration fee is thirty dollars ($30), and a repossessor employee annual renewal fee is thirty dollars ($30) per registration. Notwithstanding Section 163.5 and this subdivision, the reregistration fee for a repossessor employee whose registration expired more than one year prior to the filing of the application for reregistration shall be fifty-five dollars ($55).

(i) The fingerprint processing fee is that amount charged the bureau by the Department of Justice.

(j) The director shall furnish one copy of any issue or edition of the licensing law and rules and regulations to any applicant or licensee without charge. The director shall charge and collect a fee of three dollars ($3) plus sales tax for each additional copy which may be furnished on request to any applicant or licensee, and for each copy furnished on request to any other person.

All fees, except any sales tax, received pursuant to this chapter shall be deposited in the Private Investigator Fund.

SEC. 11. Section 7550.10 of the Business and Professions Code is amended to read:

7550.10. A protection dog operator shall furnish a statement containing the following to any person who in any way obtains a protection dog from the licensee: "Protection dog operators are regulated by the Bureau of Collection and Investigative Services, Department of Consumer Affairs, Sacramento, CA 95814."

SEC. 12. Section 7599.54 of the Business and Professions Code is amended to read:

7599.54. Every agreement, including all labor, services, and

materials to be provided for the installation of an alarm system, shall be in writing. All amendments subject to the provisions of this section to an initial agreement shall be in writing. Each initial agreement shall contain, but not be limited to, the following:

(a) The name, business address, business telephone number, and license number of the licensed alarm company operator and the registration number of any alarm agent who solicited or negotiated the agreement.

(b) The approximate dates when the work will begin and be substantially completed.

(c) A description of the work to be done, a description of the materials to be used, and the agreed consideration for the work.

(d) A disclosure that alarm company operators are licensed and regulated by the Bureau of Collection and Investigative Services, Department of Consumer Affairs, Sacramento, CA, 95814.

(e) A description of the alarm system including the major components thereof and services to be provided to the purchaser once the alarm is installed, including response or monitoring services, if any.

(f) Other matters agreed to by the parties of the contract. The agreement shall be legible and shall be in such form as to clearly describe any other document which is to be incorporated into the contract, and, before any work is done, the client shall be furnished with a copy of the written agreement signed by the licensee.

(g) A statement setting forth that upon completion of the installation of the alarm system, the alarm company shall thoroughly instruct the purchaser in the proper use of the alarm system.

(h) In the event a mechanic's lien is to be utilized, a notice-to-owner statement which shall describe, in nontechnical language and in a clear and coherent manner using words with common and everyday meaning, the pertinent provisions of this state's mechanics' lien laws and the rights and responsibilities of an owner of property and a contractor thereunder, including the provisions relating to the filing of a contract concerning a work of improvement with the county recorder and the recording in the office of a contractor's payment bond for private work.

(i) In addition to the above, every initial residential sales agreement, the total cost which over the time period fixed by the agreement exceeds two hundred fifty dollars ($250), including the cost of all labor, service, or material to be provided by the licensee for the installation, shall include, but not be limited to, the following:

(1) A schedule of payments showing the amount of each payment as a sum in dollars and cents. This schedule of payments shall be referenced to the amount of work for services to be performed or to any materials or equipment to be supplied.

(2) If the payment schedule contained in the agreement provides for a down payment to be paid to the licensee by the owner or the tenant before commencement of the work, that down payment shall not exceed one thousand dollars ($1,000) or

10 percent of the contract price, excluding finance charges, whichever is the lesser.

(3) In no event shall the payment schedule provide that the licensee receive, nor shall the licensee actually receive, payment in excess of 100 percent of the value of the work performed on the project at any time, excluding finance charges, except that the licensee may receive an initial down payment authorized by paragraph (2). A failure by the licensee, without legal excuse, to substantially commence work within 20 days of the approximate date specified in the contract when work is to commence, shall postpone the next succeeding payment to the licensee for that period of time equivalent to the time between when substantial commencement was to have occurred and when it did occur.

(4) A notice-to-owner statement which shall describe, in nontechnical language and in a clear and coherent manner using words with common and everyday meaning, the pertinent provisions of this state's mechanics' lien laws and the rights and responsibilities of an owner of property and a contractor thereunder, including the provisions relating to the filing of a contract concerning a work of improvement with the county recorder and the recording in the office of a contractor's payment bond for private work.

(5) A description of what constitutes substantial commencement of work pursuant to the contract.

(6) A disclosure that failure by the licensee, without legal excuse, to substantially commence work within 20 days from the approximate date specified in the agreement when the work will begin is a violation of the Alarm Company Act.

(7) This section shall not be construed to prohibit the parties to a residential alarm system sale contract from agreeing to a contract or account subject to Chapter 1 (commencing with Section 1801) of Title 2 of Part 4 of Division 3 of the Civil Code.

A violation of this section or failure to commence work pursuant to paragraph (6) of subdivision (h) may result in a fine of one hundred dollars ($100) for the first violation and a five hundred dollar ($500) fine for each subsequent violation.

SEC. 13. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 518

An act to amend Sections 50783 and 50784 of the Health and Safety Code, relating to mobilehomes, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 5, 1991 Filed with Secretary of State October 7, 1991.]

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

SECTION 1. Section 50783 of the Health and Safety Code is amended to read:

50783. (a) The department may make loans from the fund to resident organizations for the purpose of financing mobilehome park conversion costs, as defined in this chapter.

(b) Loans provided pursuant to this section shall be for a term of no more than three years and shall bear interest at a rate of 3 percent per annum.

(c) Loans provided pursuant to this section shall be for the minimum amount necessary to enable a resident organization to acquire and convert the mobilehome park in which its members reside. To the extent possible, the loan amount shall not exceed 50 percent of the approved conversion costs. However, the loan amount may be for up to 95 percent of the approved conversion costs attributable to the low-income households in the park when approved by the department.

(d) The department may grant approval to exceed 50 percent of the approved conversion costs only where both of the following are demonstrated:

(1) That the applicant has made an effort to secure additional funds from other sources and these funds are not available.

(2) That the project would not be feasible, as determined by the department, without a waiver of the 50 percent financing limitation.

(e) The total secured debt in a superior position to the department's loan plus the department's loan shall not exceed the value of the collateral securing the loan.

SEC. 2. Section 50784 of the Health and Safety Code is amended to read:

50784. (a) The department may make loans from the fund to low-income residents of mobilehome parks converted to resident ownership or to resident organizations which have converted or plan to convert a mobilehome park to resident ownership. The purpose of providing loans pursuant to this section is to reduce the monthly housing costs for low-income residents to an affordable level.

(b) Loans provided pursuant to this section shall be for a term of no more than 30 years and shall bear interest at a rate of 3 percent per annum.

(c) The department may establish flexible repayment terms for

loans provided pursuant to this section if the terms are necessary to reduce the monthly housing costs for low-income residents to an affordable level, and do not represent an unacceptable risk to the security of the fund. Flexible repayment terms may include, but are not limited to, graduated payment schedules with negative amortization.

(d) Loans provided to low-income residents pursuant to this section shall be for the minimum amount necessary to reduce the borrower's monthly housing costs to an affordable level. All of the following shall apply to loans to finance individual interests pursuant to this section:

(1) To the extent possible, loan amounts shall not exceed 50 percent of the acquisition costs of the individual interests in the mobilehome parks. However, the loan amounts may be for up to 95 percent of the acquisition costs of the individual interests in the mobilehome parks when approved by the department.

(2) The department may grant approval to exceed 50 percent of the acquisition costs of the individual interests only where both of the following are demonstrated:

(A) That the low-income resident has made an effort to secure additional funding from other sources and these funds are not available.

(B) That the low-income resident would be unable to purchase an individual interest without a waiver of the 50 percent financing limitation.

(3) The total indebtedness upon individual interests may not exceed 95 percent of the value of the collateral securing the loan.

(e) Loans provided to resident organizations pursuant to this section shall be for the minimum amount necessary to reduce the monthly housing costs of low-income residents to an affordable level. All of the following shall apply to loans made to resident organizations pursuant to this section:

(1) To the extent possible, loan amounts shall not exceed 50 percent of the conversion costs attributable to the low-income spaces. However, the loan amounts may be for up to 95 percent of the conversion costs attributable to the low-income spaces when approved by the department.

(2) The department may grant approval to exceed 50 percent of the conversion costs attributable to low-income spaces only where both of the following are demonstrated:

(A) That the applicant has made an effort to secure additional funds from other sources and these funds are not available.

(B) That the project would not be feasible as determined by the department without a waiver of the 50 percent financing limitation.

(3) The total secured debt in a superior position to the department's loan plus the department's loan shall not exceed the value of the collateral securing the loan.

(f) Funds provided pursuant to this section shall not be used to assist residents who are not of low income, or to reduce monthly

housing costs for low-income residents to less than 30 percent of their monthly income.

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

This act makes necessary changes to the Mobilehome Park Resident Ownership Program to facilitate making loans to otherwise qualified resident organizations for the purchase of mobilehome parks for conversion to resident ownership. This program fulfills immediate and critical housing needs throughout California by preserving mobilehome parks as affordable housing. It is therefore necessary that this statute take effect immediately.

CHAPTER 519

An act to repeal Articles 4 (commencing with Section 990), 5A (commencing with Section 993), 5B (commencing with Section 995.01), 5c (commencing with Section 996), 5e (commencing with Section 996.25), 5f (commencing with Section 996.45), 5g (commencing with Section 996.60), 5h (commencing with Section 996.75), and 5i (commencing with Section 996.87) of Chapter 6 of Division 4 of the Military and Veterans Code, relating to bond acts.

[Approved by Governor October 5, 1991 Filed with Secretary of State October 7, 1991]

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

SECTION 1. Article 4 (commencing with Section 990) of Chapter 6 of Division 4 of the Military and Veterans Code is repealed.

SEC. 2. Article 5A (commencing with Section 993) of Chapter 6 of Division 4 of the Military and Veterans Code is repealed.

SEC. 3. Article 5B (commencing with Section 995.01) of Chapter 6 of Division 4 of the Military and Veterans Code is repealed.

SEC. 4. Article 5c (commencing with Section 996) of Chapter 6 of Division 4 of the Military and Veterans Code is repealed.

SEC. 5. Article 5e (commencing with Section 996.25) of Chapter 6 of Division 4 of the Military and Veterans Code is repealed.

SEC. 6. Article 5f (commencing with Section 996.45) of Chapter 6 of Division 4 of the Military and Veterans Code is repealed.

SEC. 7. Article 5g (commencing with Section 996.60) of Chapter 6 of Division 4 of the Military and Veterans Code is repealed.

SEC. 8. Article 5h (commencing with Section 996.75) of Chapter 6 of Division 4 of the Military and Veterans Code is repealed.

SEC. 9. Article 5i (commencing with Section 996.87) of Chapter 6 of Division 4 of the Military and Veterans Code is repealed.

CHAPTER 520

An act to amend Sections 3822 and 3823 of, to add Sections 3827 and 6898.5 to, and to repeal and add Section 3822.1 of, the Public Resources Code, relating to mineral resources, and making an appropriation therefor.

[Approved by Governor October 5, 1991. Filed with Secretary of State October 7, 1991]

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

SECTION 1. Section 3822 of the Public Resources Code is amended to read:

3822. (a) Thirty percent of the revenues received and deposited in the Geothermal Resources Development Account shall be available for expenditure by the State Energy Resources Conservation and Development Commission as grants or loans to local jurisdictions or private entities without regard to fiscal years. These revenues shall be held by the State Energy Resources Conservation and Development Commission in the Local Government Geothermal Resources Revolving Subaccount, which is hereby created within the Geothermal Resources Development Account. Loan repayments shall be deposited in the subaccount and shall be used for making additional grants and loans pursuant to Section 3823.

(b) No local jurisdiction shall be eligible to apply for a grant or loan pursuant to this section unless its governing body approves the application by resolution.

(c) Each recipient of a grant or loan made pursuant to this section shall establish for deposit of the revenues an account or fund separate from the other accounts and funds of the recipient and may expend the revenues only for the purposes specified in this chapter.

(d) The State Energy Resources Conservation and Development Commission shall make grants and loans pursuant to this section irrespective of whether a local jurisdiction is a county of origin.

(e) Any of the revenues that are not disbursed as grants or loans pursuant to this section during the fiscal year received shall be retained in the subaccount and may be disbursed as grants or loans pursuant to this section in succeeding fiscal years.

(f) Any loan made under this section shall (1) not exceed 80 percent of the local jurisdiction's costs, (2) bear an interest rate no greater than 8 percent per year, and (3) be repayed together with interest within 20 years from receipt of the loan funds.

(g) Any loan or grant made to a private entity under this section shall (1) be matched with at least an equal investment by the recipient, (2) provide tangible benefits, as determined by the State Energy Resources Conservation and Development Commission, to a local jurisdiction, and (3) be approved by the city, county, or Indian

reservation within which the project is to be located.

SEC. 2. Section 3822.1 of the Public Resources Code is repealed.

SEC. 3. Section 3822.1 is added to the Public Resources Code, to read:

3822.1. Notwithstanding any other provision of law, commencing with the 1984–85 fiscal year and in each fiscal year thereafter, any revenues not granted pursuant to Section 3822 remaining in the Geothermal Resources Development Account and any revenues expected to be received and disbursed during the 1984–85 fiscal year and in each fiscal year thereafter shall be made a part of the Governor's Budget. Projects approved by the State Energy Resources Conservation and Development Commission under this chapter shall be submitted for review and comment to the Department of Finance, the Legislative Analyst, and the Joint Legislative Budget Committee when the Legislature is in session. After a 30-day period, the commission shall execute the funding agreements. The commission shall submit to the Legislature by April 1 of each year, a list of projects, in priority order, selected and approved during the previous year.

SEC. 4. Section 3823 of the Public Resources Code is amended to read:

3823. Revenues disbursed to counties of origin pursuant to Section 3821 and grants or loans made to local jurisdictions or private entities pursuant to Section 3822 shall be expended by the recipient for the following purposes:

(a) Undertaking research and development projects relating to geothermal resource assessment and exploration, and direct-use and electric generation technology.

(b) Local and regional planning and policy development and implementation necessary for compliance with programs required by local, state, or federal laws and regulations.

(c) Identification of feasible measures that will mitigate the adverse impacts of the development of geothermal resources and the adoption of ordinances, regulations, and guidelines to implement those measures.

(d) Collecting baseline data and conducting environmental monitoring.

(e) Preparation or revision of geothermal resource elements, or geothermal components of energy elements, for inclusion in the local general plan, zoning and other ordinances, and related planning and environmental documents.

(f) Administrative costs incurred by the local jurisdiction that are attributable to the development or production of geothermal resources.

(g) Monitoring and inspecting geothermal facilities and related activities to assure compliance with applicable laws, regulations, and ordinances.

(h) Identifying, researching, and implementing feasible measures that will mitigate the adverse impacts of that development or

production.

(i) Planning, constructing, providing, operating, and maintaining those public services and facilities that are necessitated by and result from the development or production.

(j) Undertaking projects demonstrating the technical and economic feasibility of geothermal direct heat and electrical generation applications.

(k) Undertaking projects for the enhancement, restoration, or preservation of natural resources, including, but not limited to, water development, water quality improvement, fisheries enhancement, and park and recreation facilities and areas.

SEC. 5. Section 3827 is added to the Public Resources Code, to read:

3827. If federal geothermal lease lands are transferred to the state for any reason, the lease revenues shall continue to be deposited into the accounts specified pursuant to Section 3826.

SEC. 6. Section 6898.5 is added to the Public Resources Code, to read:

6898.5. Notwithstanding Section 6898, any lease in effect on July 1, 1991, of lands, within the bed of Owens Lake for the development of minerals other than oil and gas and geothermal resources may be immediately extended by the commission for an additional 20 years beyond its current expiration date, with the subsequent lease renewal in accordance with Section 6898.

CHAPTER 521

An act to amend Section 125.9 of, to add Section 1611.5 to, and to repeal Section 1704 of, the Business and Professions Code, relating to dentistry, and making an appropriation therefor.

[Approved by Governor October 5, 1991. Filed with Secretary of State October 7, 1991]

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

SECTION 1. Section 125.9 of the Business and Professions Code is amended to read:

125.9. (a) Except with respect to persons regulated under Chapter 8 (commencing with Section 6850), Chapter 11 (commencing with Section 7500), Chapter 11.5 (commencing with Section 7512), and Chapter 11.6 (commencing with Section 7590) of Division 3, or a person holding a license specified in paragraph (1), (6), or (7) of subdivision (b) of Section 9941, any board, bureau, or commission within the department may establish, by regulation, a system for the issuance to a licensee of a citation which may contain an order of abatement or an order to pay an administrative fine assessed by the board, bureau, or commission where the licensee is

in violation of the applicable licensing act or any regulation adopted pursuant thereto.

(b) The system shall contain the following provisions:

(1) Citations shall be in writing and shall describe with particularity the nature of the violation, including specific reference to the provision of law determined to have been violated.

(2) Where appropriate, the citation shall contain an order of abatement fixing a reasonable time for abatement of the violation.

(3) In no event shall the administrative fine assessed by the board, bureau, or commission exceed two thousand five hundred dollars ($2,500) for each inspection or each investigation made with respect to the violation. In assessing a fine, the board, bureau, or commission shall give due consideration to the appropriateness of the amount of the fine with respect to such factors as the gravity of the violation, the good faith of the licensee, and the history of previous violations.

(4) A citation or fine assessment issued pursuant to a citation shall inform the licensee that if he or she desires a hearing to contest the finding of a violation, that hearing shall be requested by written notice to the board, bureau, or commission within 30 days of the date of issuance of the citation or assessment. If a hearing is not requested pursuant to this section, payment of any fine shall not constitute an admission of the violation charged. Hearings shall be held pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

(5) Failure of a licensee to pay a fine within 30 days of the date of assessment, unless the citation is being appealed, may result in disciplinary action being taken by the board, bureau, or commission. Where a citation is not contested and a fine is not paid, the full amount of the assessed fine shall be added to the fee for renewal of the license. A license shall not be renewed without payment of the renewal fee and fine.

(c) The system may contain the following provisions:

(1) A citation may be issued without the assessment of an administrative fine.

(2) Assessment of administrative fines may be limited to only particular violations of the applicable licensing act.

(d) Notwithstanding any other provision of law, where a fine is paid to satisfy an assessment based on the finding of a violation, payment of the fine shall be represented as satisfactory resolution of the matter for purposes of public disclosure.

(e) This section does not apply to any board, bureau, or commission within the department with existing authority to establish, by regulation, a system for the issuance, to a licensee, of a citation which may include an order of abatement or an order to pay an administrative fine, even if the system of citation does not affect or apply to all activities engaged in by a licensee. Nothing in this section expands or limits that authority.

(f) Administrative fines collected pursuant to this section shall be deposited in the special fund of the particular board, bureau, or

commission.

SEC. 2. Section 1611.5 is added to the Business and Professions Code, to read:

1611.5. The board may inspect the books, records, and premises of any dentist licensed under this chapter in response to a complaint that a licensee has violated any law or regulation that constitutes grounds for disciplinary action by the board, and may employ inspectors for this purpose.

A licensee's failure to allow an inspection or any part thereof shall be grounds for suspension or revocation of the license in accordance with Section 1670.

SEC. 3. Section 1704 of the Business and Professions Code is repealed.

CHAPTER 522

An act to amend Section 611.1 of the Elections Code, relating to elections.

[Approved by Governor October 5, 1991. Filed with Secretary of State October 7, 1991.]

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

SECTION 1. Section 611.1 of the Elections Code is amended to read:

611.1. The elections official shall compile an index, list, or file, by precinct, of all persons who voted in the previous statewide general election. This information shall be compiled in conjunction with the purge of voter registration files conducted pursuant to Article 6 (commencing with Section 800).

Information compiled pursuant to this section shall include that information which is required to appear in the index as set forth in Section 600.

Any person, candidate, or committee who is entitled to obtain a copy of any information contained in this article shall, upon written request to the elections official, be entitled to obtain the index, list, or file compiled pursuant to this section. The elections official shall inform any recipient of this information as to whether the index, list, or file includes a voting history of absent voters. The elections official may require the payment of a fee not to exceed the cost of duplicating the information or providing the tape as a condition to furnishing the information contained in this section.

If the elections official uses data-processing equipment, he or she shall make the index available on a data-processing tape file on request. The elections official shall be required to retain this file until the next November general election in an even-numbered year has been conducted.

SEC. 2. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 523

An act to amend Section 38631 of the Government Code, relating to police protection.

[Approved by Governor October 5, 1991. Filed with Secretary of State October 7, 1991]

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

SECTION 1. Section 38631 of the Government Code is amended to read:

38631. The legislative body of a city may delegate to either the chief of police of the city or the city manager the authority to:

(a) Appoint one or more police officers.

(b) Appoint additional police officers when he or she deems it necessary for the preservation of the public order.

CHAPTER 524

An act to amend Sections 5484, 5485, and 5486 of the Business and Professions Code, relating to outdoor advertising.

[Approved by Governor October 5, 1991 Filed with Secretary of State October 7, 1991]

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

SECTION 1. Section 5484 of the Business and Professions Code is amended to read:

5484. (a) The license fee is two hundred fifty dollars ($250) for an original license and for each annual renewal thereof for any applicant maintaining six or less sign or structure permits, or both, except where the applicant has engaged in the business of outdoor

advertising without a valid, unrevoked and unexpired license, the fee for any issuance of the first license thereafter is three hundred fifty dollars ($350), one hundred dollars ($100) of which is the penalty.

(b) The license fee is five hundred dollars ($500) for an original license and for each annual renewal for any applicant maintaining seven or more sign or structure permits, or both, except where the applicant has engaged in the business of outdoor advertising without a valid, unrevoked and unexpired license, the fee for any issuance of the first license thereafter is six hundred dollars ($600), one hundred dollars ($100) of which is the penalty.

SEC. 2. Section 5485 of the Business and Professions Code is amended to read:

5485. (a) The permit fee for each advertising sign is twenty dollars ($20) for an original permit and for each annual renewal thereof, except where the applicant has placed or maintained the sign without a valid, unrevoked, and unexpired permit therefor, the fee for any issuance of the first permit thereafter is ninety-five dollars ($95), seventy-five dollars ($75) of which is the penalty.

(b) The permit fee for an advertising structure for the original permit and for each annual renewal thereof is twenty dollars ($20), except where the applicant has placed or maintained the structure without a valid, unrevoked, and unexpired permit therefor, the fee for any issuance of the first permit thereafter is ninety-five dollars ($95), seventy-five dollars ($75) of which is the penalty.

SEC. 3. Section 5486 of the Business and Professions Code is amended to read:

5486. In addition to the fees set forth in Section 5485, no application for an original permit to place an advertising structure shall be accepted by the department unless it is also accompanied by an application fee of three hundred dollars ($300). The application fee shall be retained by the department whether or not a permit is issued.

An applicant may request a preliminary determination as to whether a proposed structure and location would be legally eligible for a state permit upon submission of a fee of two hundred dollars ($200), one hundred dollars ($100) of which shall be credited toward an application fee for an original permit at this location if a permit is applied for within one year of the response to the request for preliminary determination.

CHAPTER 525

An act to add Section 4990.17 to the Business and Professions Code, relating to the Board of Behavioral Science Examiners, and making an appropriation therefor.

[Approved by Governor October 5, 1991 Filed with Secretary of State October 7, 1991.]

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

SECTION 1. Section 4990.17 is added to the Business and Professions Code, to read:

4990.17. (a) In any order issued in resolution of a disciplinary proceeding before the board, the board may request the administrative law judge to direct any registrant or licensee found to have violated or be in violation of Section 4982, 4986.70, or 4992.3, to pay to the board a sum not to exceed the actual and reasonable costs of the investigation and prosecution of the case.

(b) The costs to be assessed shall be fixed only by the administrative law judge and shall not be fixed or increased by the board. A certification by the board's executive officer of the costs incurred for investigation and prosecution of the case shall be conclusive proof of those costs. If the board does not adopt a proposed decision the board shall not increase the amount of any assessed costs specified in the proposed decision.

(c) Nothing in subdivision (a) or (b) shall preclude the board from seeking recovery of costs in an order made pursuant to an agreement entered into between the board and the registrant or licensee.

(d) Where an order for recovery of costs is made and timely payment is not made as directed in the board's decision, the board may enforce the order for payment in any appropriate court. This right of enforcement shall be in addition to any other rights the board may have as to any registrant or licensee directed to pay costs.

(e) In any action for recovery of costs, proof of the board's decision shall be conclusive proof of the validity of the order of payment and the terms for payment.

(f) (1) Except as provided in paragraph (2), the board shall not renew or reinstate the license or registration of, nor shall the board accept any petition for reinstatement or modification of probation from, any licensee or registrant who has failed to pay all of the costs ordered under this section.

(2) Notwithstanding paragraph (1), the board may, in its discretion, conditionally renew or reinstate for a maximum of two years the registration or license of any registrant or licensee who demonstrates financial hardship and who enters into a formal agreement with the board to reimburse the board within that one-year period for those unpaid costs.

(g) All costs recovered under this section shall be deposited into the Behavioral Science Examiners Fund.

CHAPTER 526

An act to amend Section 14105.31 of the Welfare and Institutions Code, relating to Medi-Cal.

[Approved by Governor October 5, 1991. Filed with Secretary of State October 7, 1991.]

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

SECTION 1. Section 14105.31 of the Welfare and Institutions Code is amended to read:

14105.31. For purposes of the Medi-Cal contract drug list, the following definitions shall apply:

(a) "Single-source drug" means a drug which is produced and distributed under an original New Drug Application approved by the federal Food and Drug Administration. This shall include a drug marketed by the innovator manufacturer and any cross-licensed producers or distributors operating under the New Drug Application, and shall also include a biological product, except for vaccines, marketed by the innovator manufacturer and any cross-licensed producers or distributors licensed by the federal Food and Drug Administration pursuant to Section 262 of Title 42 of the United States Code. A drug ceases to be a single-source drug when the same drug in the same dosage form and strength manufactured by another manufacturer is approved by the federal Food and Drug Administration under the provisions for an Abbreviated New Drug Application.

(b) "Best price" means the negotiated price, or the manufacturer's lowest price available to any class of trade organization or entity, including, but not limited to, wholesalers, retailers, hospitals, repackagers, providers, or governmental entities within the United States, which contracts with a manufacturer for a specified price for drugs, inclusive of cash discounts, free goods, volume discounts, rebates, and on- or off-invoice discounts or credits shall be based upon the manufacturer's commonly used retail package sizes for the drug sold by wholesalers to retail pharmacies.

(c) "Equalization payment amount" means the amount negotiated between the manufacturer and the department for reimbursement by the manufacturer, as specified in the contract. The equalization payment amount shall be based on the difference between the manufacturer's direct catalog price charged to wholesalers and the manufacturer's best price, as defined in subdivision (b).

(d) "Manufacturer" means any person, partnership, corporation,

or other institution or entity which is engaged in the production, preparation, propagation, compounding, conversion, or processing of drugs, either directly or indirectly by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, or in the packaging, repackaging, labeling, relabeling, and distribution of drugs.

(e) "Price escalator" means a mutually agreed upon price specified in the contract, to cover anticipated cost increases over the life of the contract.

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

CHAPTER 527

An act to amend Sections 77226, 77230, 77251, 77260, 77331, 77332, 77371, and 77372 of the Food and Agricultural Code, relating to the California Pepper Commission.

[Approved by Governor October 5, 1991. Filed with Secretary of State October 7, 1991.]

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

SECTION 1. Section 77226 of the Food and Agricultural Code is amended to read:

77226. (a) "Handler" means any person engaged in marketing of peppers which the person has produced, purchased, or acquired from a producer, or is marketing on behalf of a producer whether as owner, agent, employee, broker, or otherwise. "Handler" does not include any person who handles less than 100 tons of fresh peppers, or the equivalent in dehydrated peppers or pepper seed, in a marketing year.

(b) "Handle" means to engage in the business of a handler.

SEC. 2. Section 77230 of the Food and Agricultural Code is amended to read:

77230. "Producer" means any person in this state who grows peppers for market and who, upon request, provides proof of commodity sale. "Producer" does not include any person who grows less than 10 acres of peppers, or produces less than 100 tons of fresh peppers, or the equivalent in dry peppers or pepper seed, in the current marketing year.

SEC. 3. Section 77251 of the Food and Agricultural Code is amended to read:

77251. (a) There is in the state government the California Pepper Commission. The commission shall be composed of five pepper producers, five pepper handlers, and shall include one public

member.

(b) Five producers, one from each district, shall be elected by and from producers within the respective districts. Five handlers, including one primarily engaged in processing frozen or dehydrated bell peppers; one primarily engaged in processing frozen or dehydrated chili peppers; one primarily engaged in packing fresh market peppers; one primarily engaged in processing peppers, other than frozen or dehydrated; and one representing a handler of pepper seed, shall be elected by and from other qualified handlers engaged in the same activity.

(c) The public member shall be appointed to the commission by the director from nominees recommended by the commission.

(d) The director and other appropriate individuals as determined by the commission shall be ex officio members of the commission.

SEC. 4. Section 77260 of the Food and Agricultural Code is amended to read:

77260. Any handler member and his or her alternate member on the commission shall have a financial interest in handling peppers for market, or be an employee of a firm which handles peppers.

SEC. 5. Section 77331 of the Food and Agricultural Code is amended to read:

77331. (a) The commission shall establish the assessment for the following marketing year not later than May 1 of each year, or as soon thereafter as is possible.

(b) The assessment for the 1989–90 marketing year shall not exceed twenty-five cents ($0.25) per ton for producers and twenty-five cents ($0.25) per ton for handlers on all peppers grown and shipped on a wet pound or ton basis by producers and handled by handlers. Thereafter, the assessment shall not exceed one dollar ($1) per ton for producers and one dollar ($1) per ton for handlers.

(c) The assessment for the 1989–90 marketing year shall not exceed $0.00065 per pound for producers and $0.00065 per pound for handlers on all peppers grown and shipped on a dry pound basis by producers and handled by handlers. Thereafter, the assessment shall not exceed a maximum of $0.0026 per pound for producers and $0.0026 per pound for handlers.

(d) The assessment for the 1989–90 marketing year shall not exceed two cents ($0.02) per pound for producers and two cents ($0.02) per pound for handlers on all planting seed grown by producers and handled by handlers. Thereafter, the assessment shall not exceed a maximum of eight cents ($0.08) per pound for producers and eight cents ($0.08) per pound for handlers.

(e) The handler shall deduct the producer assessment from amounts paid by him or her to the producer and shall be a trustee of these funds and the assessment owed by the handler until they are paid to the commission at the time and in the manner prescribed by the commission.

(f) A fee greater than the amount provided in this section may not be charged unless and until a greater fee is approved pursuant to the

procedures specified in Section 77312.

SEC. 6. Section 77332 of the Food and Agricultural Code is amended to read:

77332. (a) This chapter does not apply to persons who grow peppers only for the producer's home use or who grow less than 10 acres of peppers or produce less than 100 tons of fresh peppers, or the equivalent in dry peppers or pepper seed, in the current marketing year. However, any such person who markets peppers shall file an affidavit with the commission establishing that the person grows less than 10 acres of peppers or produces less than 100 tons of fresh peppers, or the equivalent in dry peppers or pepper seed. The commission shall then determine whether the affidavit should be approved.

(b) This chapter does not apply to any person who handles less than 100 tons of fresh peppers, or the equivalent in dehydrated peppers or pepper seed, in the current marketing year. However, any person who is handling peppers shall file an affidavit with the commission specifying that the person handles less than 100 tons of peppers. The commission shall, upon receipt of the affidavit, determine whether this chapter applies to that person.

SEC. 7. Section 77371 of the Food and Agricultural Code is amended to read:

77371. Between May 1, 1993, and April 30, 1994, the commission shall cause a referendum to be conducted among producers and handlers to determine whether the operations of this chapter shall be approved and continued in effect. A favorable vote under this chapter shall be found if the director determines from the referendum that a majority of the eligible producers and handlers voting in the referendum voted in favor of continuing the operations of this chapter. If the director finds that a favorable vote has been given, the director shall so certify and this chapter shall remain effective. If the director finds that a favorable vote has not been given, the director shall so certify and declare the operations of this chapter suspended upon expiration of the marketing season ending April 30, 1994. Thereupon, the operation of the commission shall be concluded and funds distributed in the manner provided in Section 77375. No bond or security shall be required for any such referendum.

SEC. 8. Section 77372 of the Food and Agricultural Code is amended to read:

77372. Following a favorable referendum conducted prior to April 30, 1994, a referendum shall be conducted by the commission every fifth year thereafter unless a referendum is conducted as the result of a petition pursuant to this article. In that case, the referendum shall be every fifth year following the industry petitioned referendum following the procedures provided in Section 77371.

CHAPTER 528

An act to amend Section 10302.5 of, and to add Section 10302.6 to, the Public Contract Code, relating to public contracts.

[Approved by Governor October 5, 1991. Filed with Secretary of State October 7, 1991.]

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

SECTION 1. Section 10302.5 of the Public Contract Code is amended to read:

10302.5. All product specifications that the Department of General Services or any other state agency prepares for goods for any contract entered into by any state agency for the purchase of goods under Section 10295 are not subject to the review and adoption procedure under Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. Unless extended by the Legislature, this exemption shall expire on January 1, 1995.

SEC. 2. Section 10302.6 is added to the Public Contract Code, to read:

10302.6. Product specifications as prepared by the Department of General Services or any other state agency shall not be written with the intent of excluding goods manufactured, produced, grown, or otherwise originating in California.

CHAPTER 529

An act to amend Sections 60011, 60200, and 60242 of, and to add Section 60017.1 to, the Education Code, relating to instructional materials.

[Approved by Governor October 5, 1991. Filed with Secretary of State October 7, 1991.]

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

SECTION 1. Section 60011 of the Education Code is amended to read:

60011. "Instructional material" means all materials that are designed for use by pupils and their teachers as a learning resource and help pupils to acquire facts, skills, or opinions or to develop cognitive processes. Instructional materials may be printed or nonprinted, and may include textbooks, technology-based materials, other educational materials, and tests.

SEC. 1.5. Section 60017.1 is added to the Education Code, to read:

60017.1. "Technology-based materials" means those basic or

supplemental instructional materials that are designed for use by pupils and teachers as learning resources and that require the availability of electronic equipment in order to be used as a learning resource. Technology-based materials include, but are not limited to, software programs, video disks, compact disks, optical disks, video and audio tapes, lesson plans, and databases. Technology-based materials do not include the equipment required to make use of those materials.

SEC. 2. Section 60200 of the Education Code is amended to read:

60200. The state board shall adopt basic instructional materials for use in kindergarten and grades 1 to 8, inclusive, for governing boards, subject to the following provisions:

(a) The state board shall adopt basic instructional materials for all applicable grade levels in each of the following categories:

(1) Language arts.

(2) Mathematics.

(3) Reading.

(4) Science.

(5) Social Science.

(6) Bilingual or bicultural subjects.

(7) Any other subject, discipline, or interdisciplinary areas for which the state board determines the adoption of instructional materials to be necessary or desirable.

(b) The state board shall adopt any of the following for basic instructional materials in each subject in each grade:

(1) Instructional materials.

(2) Instructional materials systems.

(3) Instructional materials sets.

(4) A combination of instructional materials, instructional materials systems, and instructional materials sets, as the state board may select.

(c) The state board shall adopt procedures for the submission of basic instructional materials in order to comply with each of the following:

(1) Instructional materials may be submitted for adoption in any of the subject areas pursuant to subdivision (a) at least every two years so that there will be submissions in each subject consistent with the framework cycles established by the state board. The state board may prescribe reasonable conditions to restrict the resubmission of materials that have been previously rejected if those resubmitted materials have no substantive changes.

(2) Submitted instructional materials shall be adopted or rejected within six months of the submission date of the materials pursuant to paragraph (1), unless the state board determines that a longer period of time, not to exceed an additional three months, is necessary due to the estimated volume or complexity of the materials for that subject in that year, or due to other circumstances beyond the reasonable control of the state board.

(d) In reviewing and adopting or recommending for adoption

submitted basic instructional materials, the state board and its appropriate advisors and advisory groups shall use, and ensure that, in its judgment, all of the following conditions are met:

(1) The submitted basic instructional materials are consistent with the criteria and the standards of quality prescribed in the state board's adopted curriculum framework. In making this determination, the state board shall consider both the framework and the submitted instructional materials as a whole.

(2) The submitted basic instructional materials comply with the requirements of Sections 60040, 60041, 60042, 60043, 60044, 60200.5, and 60200.6, and the state board's guidelines for social content.

(3) The submitted instructional materials are factually accurate and incorporate principals of instruction reflective of current and confirmed research.

(4) The submitted instructional materials adequately cover the subject area for the grade level or levels for which they are submitted.

(5) The submitted instructional materials meet other criteria as are established by the state board as being necessary to accomplish the intent of Section 7.5 of Article IX of the California Constitution and of Section 1 of this act, provided that the criteria are approved by resolution at the time the resolution adopting the framework for the current adoption is approved, or at least 30 months prior to the date that the materials are to be approved for adoption.

(e) If basic instructional materials are rejected, the state board shall provide a specific, written explanation of the reasons why the submitted materials were not adopted, based upon one or more of the criteria established under subdivision (d). In providing this explanation, the state board may use, in whole or in part, materials written by the commission or any other advisors to the state board.

(f) The state board may adopt fewer than five basic instructional materials in each subject area for each grade level if either of the following occurs:

(1) Fewer than five basic instructional materials are submitted.

(2) The state board specifically finds that fewer than five basic instructional materials meet the criteria prescribed by paragraphs (1) to (5), inclusive, of subdivision (d), or the materials fail to meet the state board's adopted curriculum framework. In the event that the state board adopts fewer than five basic instructional materials in any subject for any grade level, the state board shall conduct a review of the degree to which the criteria and procedures used to evaluate the submitted materials for that adoption were consistent with the state board's adopted curriculum framework.

(g) Nothing in this section shall limit the authority of the state board to adopt materials that are not basic instructional materials.

(h) In the event that a district board establishes to the satisfaction of the state board that the state-adopted instructional materials do not promote the maximum efficiency of pupil learning in the district, the state board shall authorize that district board to use its

instructional materials allowances to purchase materials as specified by the state board, in accordance with standards and procedures established by the state board.

(i) Consistent with the quality criteria for the state board's adopted curriculum framework, the state board shall prescribe procedures to provide the most open and flexible materials submission system and ensure that the adopted materials in each subject, taken as a whole, provide for the educational needs of the diverse pupil populations in the public schools, provide collections of instructional materials that illustrate diverse points of view, represent cultural pluralism, and provide a broad spectrum of knowledge, information, and technology-based materials to meet the goals of the program and the needs of pupils.

(j) Upon making an adoption, the state board shall make available to listed publishers and manufacturers and all school interests a listing of instructional materials, including the most current unit cost of those materials as computed pursuant to subdivision (b) of Section 60222 and Section 60223. Items placed upon lists shall remain thereon, and be available for procurement through the state's systems of financing, for a period beginning with the date of the adoption of the item and ending on a date established by the state board as being not less than 30 months after the state board's approval of the curriculum framework that will succeed the framework on which the current adoption is based. All previous adoptions shall be integrated on lists and made available by subject and grade level. The lists shall terminate and shall no longer be effective on the date prescribed by the state board pursuant to this subdivision.

(k) The state board may approve multiple lists of instructional materials, without designating a grade or subject, and the state board may designate more than one grade or subject whenever it determines that a single subject designation or a single grade designation would not promote the maximum efficiency of pupil learning. Any materials so designated may be placed on single grade or single subject lists, or multigrade or interdisciplinary lists, or may be placed on separate lists including other materials with similar grade or subject designations.

(*l*) A composite listing in the format of an order form may be used to meet the requirements of this section.

(m) The lists maintained pursuant to this section shall not be deemed to control the use period by any local district.

(n) Upon making an adoption, the state board shall establish the date upon which those adopted materials shall initially be available for use by schools.

SEC. 2.5. Section 60200 of the Education Code is amended to read:

60200. The state board shall adopt basic instructional materials for use in kindergarten and grades 1 to 8, inclusive, for governing boards, subject to the following provisions:

(a) The state board shall adopt at least five basic instructional materials for all applicable grade levels in each of the following categories:

(1) Language arts.

(2) Mathematics.

(3) Reading.

(4) Science.

(5) Social Science.

(6) Bilingual or bicultural subjects.

(7) Any other subject, discipline, or interdisciplinary areas for which the state board determines the adoption of instructional materials to be necessary or desirable.

(b) The state board shall adopt any of the following for basic instructional materials in each subject in each grade:

(1) Instructional materials.

(2) Instructional materials systems.

(3) Instructional materials sets.

(4) A combination of instructional materials, instructional materials systems, and instructional materials sets, as the state board may select.

(c) The state board shall adopt procedures for the submission of basic instructional materials in order to comply with each of the following:

(1) Instructional materials may be submitted for adoption in any of the subject areas pursuant to subdivision (a) at least every two years so that there will be submissions in each subject consistent with the framework cycles established by the state board. The state board may prescribe reasonable conditions to restrict the resubmission of materials that have been previously rejected if those resubmitted materials have no substantive changes.

(2) Submitted instructional materials shall be adopted or rejected within six months of the submission date of the materials pursuant to paragraph (1), unless the state board determines that a longer period of time, not to exceed an additional three months, is necessary due to the estimated volume or complexity of the materials for that subject in that year, or due to other circumstances beyond the reasonable control of the state board.

(d) In reviewing and adopting or recommending for adoption submitted basic instructional materials, the state board and its appropriate advisors and advisory groups shall use, and ensure that, in its judgment, all of the following conditions are met:

(1) The submitted basic instructional materials are consistent with the criteria and the standards of quality prescribed in the state board's adopted curriculum framework. In making this determination, the state board shall consider both the framework and the submitted instructional materials as a whole.

(2) The submitted basic instructional materials comply with the requirements of Sections 60040, 60041, 60042, 60043, 60044, 60200.5, and 60200.6, and the state board's guidelines for social content.

(3) The submitted instructional materials are factually accurate and incorporate principals of instruction reflective of current and confirmed research.

(4) The submitted instructional materials adequately cover the subject area for the grade level or levels for which they are submitted.

(5) The submitted instructional materials meet other criteria as are established by the state board as being necessary to accomplish the intent of Section 7.5 of Article IX of the California Constitution and of Section 1 of this act, provided that the criteria are approved by resolution at the time the resolution adopting the framework for the current adoption is approved, or at least 30 months prior to the date that the materials are to be approved for adoption.

(e) If basic instructional materials are rejected, the state board shall provide a specific, written explanation of the reasons why the submitted materials were not adopted, based upon one or more of the criteria established under subdivision (d). In providing this explanation, the state board may use, in whole or in part, materials written by the commission or any other advisors to the state board.

(f) The state board may adopt fewer than five basic instructional materials in each subject area for each grade level if either of the following occurs:

(1) Fewer than five basic instructional materials are submitted.

(2) The state board specifically finds that fewer than five basic instructional materials meet the criteria prescribed by paragraphs (1) to (5), inclusive, of subdivision (d), or the materials fail to meet the state board's adopted curriculum framework. In the event that the state board adopts fewer than five basic instructional materials in any subject for any grade level, the state board shall conduct a review of the degree to which the criteria and procedures used to evaluate the submitted materials for that adoption were consistent with the state board's adopted curriculum framework.

(g) Nothing in this section shall limit the authority of the state board to adopt materials that are not basic instructional materials.

(h) In the event that a district board establishes to the satisfaction of the state board that the state-adopted instructional materials do not promote the maximum efficiency of pupil learning in the district, the state board shall authorize that district board to use its instructional materials allowances to purchase materials as specified by the state board, in accordance with standards and procedures established by the state board.

(i) Consistent with the quality criteria for the state board's adopted curriculum framework, the state board shall prescribe procedures to provide the most open and flexible materials submission system and ensure that the adopted materials in each subject, taken as a whole, provide for the educational needs of the diverse pupil populations in the public schools, provide collections of instructional materials that illustrate diverse points of view, represent cultural pluralism, and provide a broad spectrum of

knowledge, information, and technology-based materials to meet the goals of the program and the needs of pupils.

(j) Upon making an adoption, the state board shall make available to listed publishers and manufacturers and all school interests a listing of instructional materials, including the most current unit cost of those materials as computed pursuant to subdivision (b) of Section 60222 and Section 60223. Items placed upon lists shall remain thereon, and be available for procurement through the state's systems of financing, for a period beginning with the date of the adoption of the item and ending on a date established by the state board as being not less than 30 months after the state board's approval of the curriculum framework that will succeed the framework on which the current adoption is based. All previous adoptions shall be integrated on lists and made available by subject and grade level. The lists shall terminate and shall no longer be effective on the date prescribed by the state board pursuant to this subdivision.

(k) The state board may approve multiple lists of instructional materials, without designating a grade or subject, and the state board may designate more than one grade or subject whenever it determines that a single subject designation or a single grade designation would not promote the maximum efficiency of pupil learning. Any materials so designated may be placed on single grade or single subject lists, or multigrade or interdisciplinary lists, or may be placed on separate lists including other materials with similar grade or subject designations.

(*l*) A composite listing in the format of an order form may be used to meet the requirements of this section.

(m) The lists maintained pursuant to this section shall not be deemed to control the use period by any local district.

(n) Upon making an adoption, the state board shall establish the date upon which those adopted materials shall initially be available for use by schools.

SEC. 3. Section 60242 of the Education Code is amended to read:

60242. After the application of Section 60241, the state board shall encumber the balance of the fund for the purpose of:

(a) Establishing credits and cash allotments as follows:

(1) The state board shall establish a credit for each district governing board with which instructional materials adopted by the state board may be ordered by districts that choose to order materials through the state.

(2) The state board shall establish a cash allotment in an amount determined by the state board for use in purchasing instructional materials from any source, or for the purchase of tests or in-service training pursuant to Sections 60224 and 60225.

The state board shall specify the percentage of a district governing board's credit authorized to be used for each of the above purposes.

(b) Establishing an allowance for each district governing board, which the district governing board may use for the following

purposes:

(1) To purchase instructional materials adopted by the state board.

(2) To purchase instructional materials, including, but not limited to, technology-based materials, from any source.

(3) To purchase tests or in-service training pursuant to Sections 60224 and 60225.

The state board shall specify the percentage of a district governing board's allowance authorized to be used for each of the above purposes.

Allowances established for school districts pursuant to this section shall be apportioned to districts as part of the special purpose apportionment in accordance with paragraph (5) of subdivision (a) of Section 14041.

The Superintendent of Public Instruction may establish a date each fiscal year by which districts shall notify the State Department of Education if they wish to operate under a different subdivision during the next fiscal year.

(c) Obtaining instructional materials in subsequent fiscal years.

SEC. 4. Section 2.5 of this bill incorporates amendments to Section 60200 of the Education Code proposed by both this bill and AB 588. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1992, (2) each bill amends Section 60200 of the Education Code, and (3) this bill is enacted after AB 588, in which case Section 2 of this bill shall not become operative.

CHAPTER 530

An act to add Chapter 14.7 (commencing with Section 25996.950) to Division 20 of the Health and Safety Code, relating to dog pedigree registries.

[Approved by Governor October 5, 1991 Filed with Secretary of State October 7, 1991]

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

SECTION 1. The Legislature finds and declares all of the following:

(a) There is increasing evidence that many of the dogs sold in California with the claim of affiliation with, or of eligibility for, a dog breed registry suffer from poor health and genetic defects.

(b) Consumers often mistakenly rely on breed registration as an indicator of a dog's quality, health, and temperament.

(c) California consumers are willing to spend large sums of money for registered dogs. This has made California one of the largest markets for puppies bred under unsanitary and unhealthy conditions at mass breeding facilities.

(d) Approximately one-half of the 17 million dogs in this country listed or eligible to be listed with the largest dog registry are commercially bred. However, their lineage claims and the conditions under which they are bred cannot be verified due, in part, to the small number of registry staff investigators.

(e) There is a need to inform prospective dog purchasers of the limited meaning of dog registries and of the limited accuracy of registry records.

SEC. 2. Chapter 14.7 (commencing with Section 25996.950) is added to Division 20 of the Health and Safety Code, to read:

CHAPTER 14.7. DOG PEDIGREE REGISTRIES

25996.950. For purposes of this chapter:

(a) "Dog dealer" means any person, firm, partnership, corporation, or other association which engages in the acquisition of dogs for retail sale to the public. "Dog dealer" does not include duly incorporated nonprofit humane societies dedicated to the care of unwanted animals which make animals available for adoption, whether or not a fee for the adoption is charged, or pet dealers who do not in the normal course of business sell dogs, but who sometimes exhibit dogs for adoption.

(b) "Dog breeder" means any person, firm, partnership, corporation, or other association which breeds and sells dogs at wholesale or retail.

(c) "Dog pedigree registry" means any of various private agencies that serve to keep track of the breed, lineage, physical characteristics, and historical data regarding dogs which are registered with the agency.

25996.951. Every dog dealer that sells registered dogs or that claims that the dogs being sold are registered or are registerable with a dog pedigree registry shall post conspicuously within close proximity to the dogs offered for sale, a notice containing the following language in at least 100-point type:

"Pedigree registration does not assure proper breeding conditions, health, quality, or claims to lineage."

25996.952. (a) For every dog sold by a dog dealer or dog breeder which is sold with any representation that the dog is registered or registerable with a dog pedigree registry, the following fully completed disclosure shall be made, orally and in writing on a separate sheet from any other statements, including, but not limited to, the name of the dog dealer or breeder and the name of the relevant dog pedigree registry:

"Disclosure by

DOG PEDIGREE REGISTRATION DISCLOSURE

Description of dog: _____

_____

The dog you are purchasing is registered/registerable [circle one with the _____ [enter name of registry].

Registration means only that _____ [enter name of registry] maintains information regarding the parentage and identity of this dog, it does not guarantee the quality or health of this dog, and it does not guarantee quality lineage. Since dog pedigree registries depend in large part on the honesty and accuracy of persons registering dogs, registration does not guarantee the accuracy of the lineage recorded nor that this dog is purebred.

Acknowledged: _____ _____ "
Retail purchaser's signature Date

(b) The disclosure in subdivision (a) shall be signed and dated by the retail purchaser of the dog acknowledging receipt of a copy of the statement and the dog dealer or dog breeder shall retain a copy.

25996.953. (a) Any dog dealer or dog breeder who fails to comply with the disclosure requirements in Section 25996.951 or 25996.952, as the case may be, shall be liable to the retail purchaser for civil damages in an amount equal to three times the cost of the dog. Claim for payment under this section shall be made within one year from the date of purchase of the dog.

(b) The remedies provided in this section shall be in addition to any other remedies or penalties authorized by other provisions of law.

CHAPTER 531

An act to add Sections 57329 and 57385 to the Government Code, and to amend Sections 989 and 1806 of the Streets and Highways Code, relating to streets.

[Approved by Governor October 5, 1991. Filed with Secretary of State October 7, 1991.]

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

SECTION 1. Section 57329 is added to the Government Code, to read:

57329. (a) If unincorporated territory was, or is hereafter, annexed to a city, all roads and highways or portions of a road or highway in the territory which had been accepted into the county road system pursuant to Section 941 of the Streets and Highways Code are, or shall become, as the case may be, city streets on the effective date of the annexation.

(b) Subdivision (a) does not apply to a road or highway which had been accepted into the county road system pursuant to Section 941

of the Streets and Highways Code after the date of the first signature on a petition for annexation or incorporation, the adoption of a resolution of application by an affected local agency, or a date mutually agreed upon by the city and the county.

(c) Nothing in subdivision (a) requires a city to improve the affected road or highway to city standards.

SEC. 2. Section 57385 is added to the Government Code, to read:

57385. (a) If unincorporated territory was, or hereafter becomes, incorporated, all roads and highways or portions of a road or highway in the territory which had been accepted into the county road system pursuant to Section 941 of the Streets and Highways Code are, or shall become, as the case may be, city streets on the effective date of the incorporation.

(b) Subdivision (a) does not apply to a road or highway which had been accepted into the county road system pursuant to Section 941 of the Streets and Highways Code after the date of the first signature on a petition for annexation or incorporation, the adoption of a resolution of application by an affected local agency, or a date mutually agreed upon by the city and the county.

(c) Nothing in subdivision (a) requires a city to improve the affected road or highway to city standards.

SEC. 3. Section 989 of the Streets and Highways Code is amended to read:

989. (a) (1) Upon the incorporation of a city or upon the annexation of territory to a city, all right, title, and interest of the county, including the underlying fee where owned by the county, in and to any county highway within the territory involved, which had been accepted into the county road system pursuant to Section 941 shall vest in the city and shall thereupon constitute a city street.

(2) All right, title, and interest of a county in and to any county highway included within territory heretofore incorporated as a city or annexed to a city is hereby determined to have vested in the city as a city street.

(b) Subdivision (a) does not apply to a road or highway which had been accepted into the county road system pursuant to Section 941 after the date of the first signature on a petition for annexation or incorporation, the adoption of a resolution of application by an affected local agency, or a date mutually agreed upon by the city and county.

(c) Nothing in subdivision (a) requires a city to improve the affected road or highway to city standards.

SEC. 4. Section 1806 of the Streets and Highways Code is amended to read:

1806. Except as provided by Section 989, or by Section 57329 or 57385 of the Government Code, no public or private street or road shall become a city street or road until the governing body, by resolution, has caused the street or road to be accepted into the city street system; nor shall any city be held liable for failure to maintain any road until it has been accepted into the city street system by

resolution of the governing body.

SEC. 5. It is the intent of the Legislature to abrogate the holding of the Court of Appeal in Rink v. City of Cupertino, 216 Cal. App. 3d 1362, to the extent that the holding would cause a road or highway which was part of a county road system to remain within the county road system after the territory in which the road or highway is situated becomes the territory of a city through annexation or incorporation proceedings. It is, and always has been, the intent of the Legislature that roads or highways which have been accepted into a county road system pursuant to Section 941 of the Streets and Highways Code, and which are situated in an area which is subsequently incorporated or annexed to a city, be included within the city street system upon that incorporation or annexation. Accordingly, Sections 1 to 4, inclusive, of this act are intended to clarify existing law without substantive change.

SEC. 6. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 532

An act to amend Section 6105 of the Commercial Code, and to amend Sections 75.41, 1604, 2188.8, 2188.9, 2188.10, 2191.3, 2505, 2617, 2618, 2619, 2704, 2705, 2705.5, 2759, 2760, 2761, 2762, 2763, 2768, 2821, 2922, 2922.5, 2963, 3101, 3103, 3107, 3351, 3362, 3365, 4217, 4377, 4673.1, 4831, 4832.1, 4834, 4834.5, 4836.5, 4837.5, 4840, 4985, 4985.2, 4986, 4986.8, 5089, 5096, 5096.5, and 5097.2 of, and to add Sections 2503.1, 2503.2, and 3007 to, the Revenue and Taxation Code, relating to property taxation.

[Approved by Governor October 5, 1991. Filed with Secretary of State October 7, 1991.]

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

SECTION 1. Section 6105 of the Commercial Code is amended to read:

6105. In order to comply with subdivision (b) of Section 6104 each of the following shall be satisfied:

(a) The notice shall comply with each of the following:

(1) State that a bulk sale is about to be made.

(2) State the name and business address of the seller together with any other business name and address listed by the seller (subdivision

(a) of Section 6104) and the name and business address of the buyer.

(3) State the location and general description of the assets.

(4) State the place and the anticipated date of the bulk sale.

(5) State whether or not the bulk sale is subject to Section 6106.2 and, if so subject, the matters required by subdivision (f) of Section 6106.2.

(b) At least 12 business days before the date of the bulk sale, the notice shall be:

(1) Recorded in the office of the county recorder in the county or counties in this state in which the tangible assets are located and, if different, in the county in which the seller is located (paragraph (2) of subdivision (a) of Section 6103).

(2) Published at least once in a newspaper of general circulation published in the judicial district in this state in which the tangible assets are located and in the judicial district, if different, in which the seller is located (paragraph (2) of subdivision (a) of Section 6103), if in either case there is one, and if there is none, then in a newspaper of general circulation in the county in which the judicial district is located.

(3) Delivered or sent by registered or certified mail to the county tax collector in the county or counties in this state in which the tangible assets are located. If delivered during the period from March 1 to the last Friday in May, inclusive, the notice shall be accompanied by a completed business property statement with respect to property involved in the bulk sale pursuant to Section 441 of the Revenue and Taxation Code.

If the tangible assets are located in more than one judicial district in this state, the publication required in paragraph (2) shall be in a newspaper of general circulation published in the judicial district in this state in which a greater portion of the tangible assets are located, on the date the notice is published, than in any other judicial district in this state and, if different, in the judicial district in which the seller is located (paragraph (2) of subdivision (a) of Section 6103). As used in this subdivision, "business day" means any day other than a Saturday, Sunday, or day observed as a holiday by the state government.

SEC. 2. Section 75.41 of the Revenue and Taxation Code is amended to read:

75.41. (a) The auditor shall apply the current year's tax rate, as defined in Section 75.4, to the supplemental assessment or assessments, computing the amount of taxes that would be due for a full year. If the tax rate for the "roll being prepared" is known, the rate shall be used with respect to the fiscal year to which it applies, rather than the current year's tax rate as defined in Section 75.4. For property on the supplemental roll, the taxes due shall be computed in two equal installments.

(b) The taxes due shall be adjusted by a proration factor to reflect the portion of the tax year remaining as determined by the date on which the change in ownership occurred or the new construction

was completed. In computing the portion of the tax year remaining, the change in ownership or completion of new construction shall be presumed to have occurred on the first day of the month following the date on which change in ownership or completion of new construction occurred.

(c) (1) If the presumed date specified in subdivision (b) is April 1, the taxes on the supplemental assessment for the current roll shall be multiplied by 0.25; and the taxes on the supplemental assessment for the roll being prepared shall be multiplied by 1.00.

(2) If the presumed date specified in subdivision (b) is May 1, the taxes on the supplemental assessment for the current roll shall be multiplied by 0.17; and the taxes on the supplemental assessment for the roll being prepared shall be multiplied by 1.00.

(3) If the presumed date specified in subdivision (b) is June 1, the taxes on the supplemental assessment for the current roll shall be multiplied by 0.08; and the taxes on the supplemental assessment for the roll being prepared shall be multiplied by 1.00.

(4) If the presumed date specified in subdivision (b) is July 1, no supplemental assessment shall be made on the current roll, and the taxes on the supplemental assessment for the roll being prepared shall be multiplied by 1.00.

(5) If the presumed date specified in subdivision (b) is on or after August 1, and on or before March 1, the following table of factors shall be used:

If the presumed date is:	The taxes on the supplemental assessment on the current roll shall be multiplied by:
August 1	.92
September 1	.83
October 1	.75
November 1	.67
December 1	.58
January 1	.50
February 1	.42
March 1	.33

(d) After computing the supplemental taxes due, if the total is twenty dollars ($20) or less, the auditor may cancel the amount as provided by Section 4986.8.

(e) If the supplemental assessment is a negative amount, the auditor shall follow the procedures of this section to determine the amount of refund to which the assessee may be entitled.

SEC. 4. Section 1604 of the Revenue and Taxation Code is amended to read:

1604. (a) In counties of the first class, annually, on the fourth Monday in September, the county board shall meet to equalize the assessment of property on the local roll. The board shall continue to meet for that purpose, from time to time, until the business of

equalization is disposed of.

(b) In all other counties, annually, on the third Monday in July, the county board shall meet to equalize the assessment of property on the local roll. It shall continue to meet for that purpose, from time to time, until the business of equalization is disposed of.

Any taxpayer may petition the board for a reduction in an assessment and a proportionate reduction or refund of the taxes extended thereon by filing an application pursuant to Section 1603 or Section 5097.

The county board shall have no power to receive or hear any petition for a reduction in an escaped assessment made pursuant to Section 531.1 nor a penal assessment levied in respect thereto, nor to reduce those assessments.

(c) If the county assessment appeals board fails to hear evidence and fails to make a final determination on the application for reduction in assessment of property within two years of the timely filing of the application, the taxpayer's opinion of market value as reflected on the application for reduction in assessment shall be the value upon which taxes are to be levied for the tax year covered by the application, unless either of the following occurs:

(1) The taxpayer and the county assessment appeals board mutually agree in writing to an extension of time for the hearing.

(2) The application for reduction is consolidated for hearing with another application by the same taxpayer with respect to which an extension of time for the hearing has been granted pursuant to paragraph (1).

The reduction in assessment reflecting the taxpayer's opinion of market value shall not be made, however, until two years after the close of the filing period during which the timely application was filed. Further, this subdivision shall not apply to applications for reductions in assessments of property where the taxpayer has failed to provide full and complete information as required by law or where litigation is pending directly relating to the issues involved in the application. This subdivision is only applicable to applications filed on or after January 1, 1983.

(d) If, pursuant to subdivision (c), the applicant's opinion of value has been placed on the assessment roll, that value shall remain on the roll until the county board makes a final determination on the application. The value so determined by the county board, plus appropriate adjustments for the inflation factor, shall be entered on the assessment roll for the fiscal year in which the value is determined. No increased or escape taxes other than those required by a purchase, change in ownership, or new construction, or resulting from application of the inflation factor to the applicant's opinion of value shall be levied for the tax years during which the county board failed to act.

SEC. 4.5. Section 2188.8 of the Revenue and Taxation Code is amended to read:

2188.8. (a) Whenever the assessor receives a written request for

separate assessment of timeshare estates in a timeshare project, as defined in Section 11003.5 of the Business and Professions Code and as specified in subdivision (h) of this section, the assessor shall, on the first lien date which occurs more than 60 days following the request, and on each lien date thereafter, separately assess each timeshare estate in the project if the assessor determines that the conditions specified in subdivision (c) have been met. Whenever estates in a timeshare project are separately assessed, they shall continue to be separately assessed in subsequent fiscal years and once a request for separate assessment is made with respect to a project, it is binding on all future timeshare estate owners.

(b) The interest that is to be separately assessed is the value of the right of recurrent, exclusive use or occupancy of real property, annually or on some other periodic basis, for a specific period of time that has been, or will be, allotted from the use or occupancy periods into which the project has been divided.

(c) The separate assessment of a timeshare estate may not be made by the assessor unless:

(1) The person making the request certifies that the request for separate assessment has been approved in the manner provided in the organizational documents of the organization involved for approval of matters affecting the affairs of the organization generally; and

(2) A diagrammatic floor plan of the improvements, a copy of the documents setting forth the procedures for scheduling time and units to each timeshare estate owner, and a list of every timeshare estate owner, with a date notation thereon showing when, according to the organization's records, each timeshare estate was acquired, have been filed with the assessor. A plot map of the land showing the location of the improvements on the land need not be filed unless requested by the assessor. The organization shall file an annual statement for each succeeding assessment year, on or before April 1, with the assessor setting forth any changes to such required information known to the organization. The list or other information provided pursuant to this section is not a public document and shall not be open to public inspection, except as provided in Section 408.

(d) Notwithstanding the provisions of subdivision (c), this section shall not be construed to require any person making a request for separate assessment to meet the requirements of the Subdivision Map Act, nor shall the approval of any governmental agency be required for separate assessment.

(e) The tax on a timeshare estate that is separately assessed pursuant to this section shall be a lien solely on the timeshare estate and shall be entered on and be subject to all provisions of law applicable to taxes on the secured roll.

(f) The assessor shall provide to the principal office of each timeshare project within the taxing jurisdiction, at such time and in such manner as he deems appropriate, adequate notice of the provisions of this section and other pertinent information relative to

the implementation thereof.

(g) The county may charge a fee for processing an application for separate assessment and for the initial and the on-going costs, not to exceed the actual cost, of the separate assessment and billing, and mailings, with respect to a timeshare project. This fee shall be subject to Chapter 12.5 (commencing with Section 54985) of Part 1 of Division 2 of Title 5 of the Government Code, and shall be proportionately allocated to each of the timeshare estate owners. This fee may be collected commencing with the initial separate tax bills, and on subsequent tax bills, and deposited in the county's general fund.

(h) For purposes of this section, "timeshare estate" applies to timeshare estates, as defined in Section 11003.5 of the Business and Professions Code, which include a fee simple interest in the underlying property involved. However, "timeshare estate" does not include timeshare estates that are coupled with a leasehold interest or an estate for years.

SEC. 5. Section 2188.9 of the Revenue and Taxation Code is amended to read:

2188.9. (a) Whenever the assessor receives a written request for separate assessment of a timeshare project, as defined in Section 11003.5 of the Business and Professions Code, the assessor shall, on the first lien date which occurs more than 60 days following the request, and on each lien date thereafter, separately assess the individual interests in the project described in subdivision (b) if the conditions specified in subdivision (c) have been met. Whenever a timeshare project becomes subject to separate assessment, it shall continue to be so subject in subsequent fiscal years and once a request for separate assessment is made, it is binding on all future owners and occupants of the project.

(b) The interest in a timeshare project that is to be separately assessed is the value of the right of recurrent, exclusive use or occupancy of real property, annually or on some other periodic basis, for a period of time that has been, or will be, allotted from the use or occupancy periods into which the project has been divided.

(c) A separate assessment may not be made by the assessor under this section unless:

(1) The person making the request certifies that the request for separate assessment has been approved in the manner provided in the organizational documents of the organization involved for approval of matters affecting the affairs of the organization generally; and

(2) A diagrammatic floor plan of the improvements, a copy of the documents setting forth the procedures for scheduling time and units to each timeshare interest owner, and a list of every timeshare interest owner, with a date notation thereon showing when, according to the organization's records, each interest was acquired, have been filed with the assessor. A plot map of the land showing the location of the improvements on the land need not be filed unless

requested by the assessor. The organization shall file an annual statement for each succeeding assessment year, on or before April 1, with the assessor, setting forth any changes to the required information known to the organization. The list or other information provided pursuant to this section is not a public document and shall not be open to public inspection, except as provided in Section 408 of the Revenue and Taxation Code.

(d) Notwithstanding the provisions of subdivision (c), this section shall not be construed to require applicants for separate assessments to meet the requirements of the Subdivision Map Act, nor shall the approval of any governmental agency be required for separate assessment except for the assessor's approval.

(e) The assessor shall cumulate all the separate assessments in a timeshare project and enter the total assessment on the secured roll in the name of the organization or timeshare owners' association. The assessor shall notify each owner of a timeshare interest subject to separate assessment under this section of the amount of an increased assessment pursuant to Section 619.

(f) The tax on the total assessment with respect to a timeshare project shall be a lien on the entire timeshare project and shall be subject to all provisions of law applicable to taxes on the secured roll.

(g) The tax collector shall send a single tax bill, with an itemized breakdown detailing the taxes applicable to each separate assessment, to the timeshare project organization or owners' association.

(h) The assessor shall provide to the principal office of each timeshare project within the taxing jurisdiction, at that time and in that manner as he or she deems appropriate, adequate notice of the provisions of this section and other pertinent information relative to the implementation thereof.

(i) The county may charge a fee for processing the application for separate assessment and for the initial and ongoing costs of separate assessment and implementing subdivision (g), not to exceed the actual costs. Fees shall be subject to Chapter 12.5 (commencing with Section 54985) of Part 1 of Division 2 of Title 5 of the Government Code, and may be collected commencing with the initial separate tax bills, and on subsequent tax bills, and shall be deposited in the county's general fund.

(j) This section shall not apply to timeshare estates or to timeshare projects that are subject to the provisions of Section 2188.8.

SEC. 6. Section 2188.10 of the Revenue and Taxation Code is amended to read:

2188.10. (a) Whenever the assessor receives a written request for separate assessment of a pro rata portion of the real property of a mobilehome park which changed ownership pursuant to subdivision (c) of Section 62.1 as the result of the transfer of a share or shares of voting stock or other ownership or membership interest or interests, the assessor shall, on the first lien date which occurs more than 60 days following the request, and on each lien date

thereafter, separately assess the portion or portions of real property described in subdivision (b) if the conditions specified in subdivision (c) have been met. Whenever a portion of the real property of a mobilehome park becomes subject to separate assessment, it shall continue to be subject to separate assessment in subsequent fiscal years and once a request for separate assessment is made, it is binding on all future owners of the voting stock or other ownership or membership interests in the entity which owns the park.

(b) The interest that is to be separately assessed is the value of the pro rata portion of the real property of the mobilehome park which changed ownership pursuant to subdivision (c) of Section 62.1.

(c) A separate assessment may not be made by the assessor under this section unless the following conditions are met:

(1) The governing board of the mobilehome park makes the request for separate assessment and certifies that the request has been approved in the manner provided in the organizational documents of the entity owning the mobilehome park.

(2) Information is filed with the assessor listing all of the following:

(A) The total number of outstanding shares of voting stock of, or other ownership or membership interests in, the entity which owns the mobilehome park.

(B) The number of shares of voting stock, or other ownership or membership interests, which have been transferred and resulted in the change in ownership of portions of the real property of the park pursuant to subdivision (c) of Section 62.1, together with the names and addresses of the owners of the transferred voting stock or other ownership or membership interests.

(C) Any other information as the assessor may require.

The entity owning the mobilehome park shall file an annual statement for each succeeding assessment year, on or before April 1, with the assessor, setting forth any changes to the required information known to the entity. The information provided pursuant to this section is not a public document and shall not be open to public inspection, except as provided in Section 408.

(d) Nothing in this section shall be construed to require applicants for separate assessments to meet the requirements of the Subdivision Map Act, nor shall the approval of any governmental agency be required for separate assessment except for the assessor's approval.

(e) The assessor shall cumulate all the separate assessments in a mobilehome park and enter the total assessment on the secured roll in the name of the entity which owns the park. The assessor shall notify each owner of a portion of the real property of the park subject to separate assessment under this section of the amount of an increased assessment pursuant to Section 619.

(f) The tax on the total assessment of the mobilehome park shall be a lien on the real property of the park and shall be subject to all provisions of law applicable to taxes on the secured roll.

(g) The tax collector shall send a single tax bill, with an itemized breakdown detailing the taxes and the allocated portion of any fee

imposed pursuant to subdivision (i) applicable to each separate assessment, to the entity owning the mobilehome park.

(h) The assessor shall provide to owners of voting stock or other ownership or membership interest in a mobilehome park entity subject to subdivision (c) of Section 62.1, and to the governing board of the park, at that time and in that manner as the assessor deems appropriate, adequate notice of the provisions of this section and other pertinent information relative to the implementation thereof.

(i) The county may charge a fee for processing the application for separate assessment, and for the initial and ongoing costs of separate assessment and implementing subdivision (g), not to exceed actual costs. This fee shall be subject to Chapter 12.5 (commencing with Section 54985) of Part 1 of Division 2 of Title 5 of the Government Code, and shall be allocated to each owner of a share of voting stock or other ownership or membership interest for which a separate assessment has been made. The fee may be collected commencing with the initial separate tax bills, and on subsequent tax bills, and shall be deposited in the county's general fund.

(j) The governing board of the entity which owns the mobilehome park shall collect the allocated portion of any fee charged pursuant to subdivision (i) and any itemized taxes applicable to a separate assessment from the owner of the voting stock or other ownership or membership interest whose acquisition of the interest resulted in the separate assessment. The fees and taxes resulting from separate assessment shall be deducted from the proportional cost of the fees and taxes collected from the remaining owners or members.

SEC. 7. Section 2191.3 of the Revenue and Taxation Code is amended to read:

2191.3. (a) The tax collector may make the filing specified in subdivision (b) where either of the following occurs:

(1) There is a tax on a possessory interest secured only by a lien on that taxed possessory interest, or on goods in transit, not secured by any lien on real property, improvement that have been assessed pursuant to Section 2188.2, off-roll taxes on escape assessments where the error was not the fault of the assessee and the escape taxes are being paid pursuant to the provisions of Section 4837.5, or on unsecured property not secured by a lien on any real property, and where the tax has become delinquent, or on unsecured property not secured by a lien on any real property, and the tax has become delinquent.

(2) A tax has been entered on the unsecured roll pursuant to Section 482, 531.2, or 4836.5, or transferred to the unsecured roll pursuant to any provision of law.

(b) A filing for record without fee in the office of the county recorder of any county of a certificate specifying the amount due, the name, federal social security number, if known, and last known address of the assessee liable for the amount, and comp iance with all provisions of this division with respect to the computation and

levy of the tax if compliance has in fact occurred. The procedure authorized by this section is cumulative to the procedure provided by Sections 2951 and 3003.

SEC. 8. Section 2503.1 is added to the Revenue and Taxation Code, to read:

2503.1. As used in this chapter, "electronic fund transfer" means any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, which is initiated through an electronic terminal, telephonic instrument, or computer or magnetic tape so as to order, instruct, or authorize a financial institution to credit or debit an account.

SEC. 8.3. Section 2503.2 is added to the Revenue and Taxation Code, to read:

2503.2. (a) The tax collector or treasurer for any city, county, or city and county may, in his or her discretion, accept electronic fund transfers in payment of any tax or assessment, or on a redemption. An electronic fund transfer pursuant to this section shall be made to the county's bank account designated by the tax collector.

(b) Any costs incurred by the tax collector as a result of the acceptance of electronic fund transfers pursuant to subdivision (a) shall be considered administrative costs of tax collection, except that if for any reason the electronic fund transfer is not completed, those costs shall be recovered as provided in subdivision (e).

(c) The acceptance of an electronic fund transfer shall constitute payment of a tax, assessment, or redemption as of the date of acceptance when, but not before, the transfer has been completed. An electronic fund transfer is completed by acceptance by the bank designated by the tax collector of the payment specified by the originator's payment order.

(d) If an electronic fund transfer is not accepted for any reason, any record of payment entered on any official record indicating the acceptance of that transfer shall be canceled, and the tax or assessment shall be a lien as if no payment has been attempted. When a cancellation of a record of payment is made, the canceling officer shall record the cancellation on the record which contained the notation of payment, and shall immediately cause a written notice of cancellation to be sent to the person attempting the electronic fund transfer.

(e) Upon notice of nonacceptance of an electronic fund transfer, the tax collector may charge the person who attempted the electronic fund transfer a fee not to exceed the costs of processing the transfer, providing notice of nonacceptance to that person, and making required cancellations on the tax roll. The amount of the fee shall be set by the board of supervisors pursuant to Section 54986 of the Government Code, and may be added to the tax bill and collected in the same manner as costs recovered pursuant to Section 2621.

SEC. 8.5. Section 2505 of the Revenue and Taxation Code is amended to read:

2505. (a) Except as provided in subdivision (b), the tax collector or treasurer for any city or county may in his or her discretion accept negotiable paper in payment of any tax, or assessment, or on a redemption.

(b) The tax collector of a county shall accept a certificate of eligibility to pay all or any part of any ad valorem property tax, special assessment, or other charge or user fee appearing on the county tax bill. The tax collector, treasurer, or other official charged with the duty of collecting taxes for a chartered city which levies and collects its own property taxes shall accept a certificate of eligibility to pay all or any part of any ad valorem property tax, special assessment, or other charge or user fee appearing on the tax bill of such city. A certificate for partial payment shall not be accepted unless accompanied by an amount sufficient to fully pay the remaining ad valorem property taxes, special assessment, or other charge or fee appearing on the respective tax bill installment.

(c) Except as provided in Chapter 2 (commencing with Section 20581), Chapter 3.3 (commencing with Section 20639), Chapter 3.5 (commencing with Section 20640), or Chapter 4 (commencing with Section 20641) of Part 10.5 of Division 2, a certificate of eligibility shall not be used to pay any delinquent taxes, assessments, penalties, costs, fees, or interest, or any redemption charges.

(d) For the 1978–79 fiscal year and thereafter, except as to those amounts which can be paid by a certificate pursuant to subdivision (c), the tax collector shall not accept a certificate of eligibility to pay all or part of any installment if tendered after the delinquency date thereof, unless accompanied by an amount sufficient to fully pay any delinquent taxes, assessments, costs, penalties, interest, fees or other charges resulting from the delinquency or delinquencies.

(e) In no event shall a certificate of eligibility be accepted later than the expiration date designated thereon.

SEC. 9. Section 2617 of the Revenue and Taxation Code is amended to read:

2617. All taxes due November 1, if unpaid, are delinquent at 5 p.m., or the close of business, whichever is later, on December 10, and thereafter a delinquent penalty of 10 percent attaches to them.

SEC. 10. Section 2618 of the Revenue and Taxation Code is amended to read:

2618. The second half of taxes on real property, if unpaid, is delinquent at 5 p.m., or the close of business, whichever is later, on April 10, and thereafter a delinquent penalty of 10 percent attaches to it.

SEC. 11. Section 2619 of the Revenue and Taxation Code is amended to read:

2619. If December 10 or April 10 falls on Saturday, Sunday or a legal holiday, the time of delinquency is at 5 p.m., or the close of business, whichever is later, on the next business day.

SEC. 12. Section 2704 of the Revenue and Taxation Code is amended to read:

2704. All taxes due November 1, if unpaid, are delinquent at 5 p.m., or the close of business, whichever is later, on December 10, and thereafter a delinquent penalty of 10 percent attaches to them.

SEC. 13. Section 2705 of the Revenue and Taxation Code is amended to read:

2705. The second half of taxes on the secured roll, if unpaid, is delinquent at 5 p.m., or the close of business, whichever is later, on April 10, and thereafter a delinquent penalty of 10 percent attaches to it.

SEC. 14. Section 2705.5 of the Revenue and Taxation Code is amended to read:

2705.5. If December 10 or April 10 falls on Saturday, Sunday or a legal holiday, the time of delinquency is at 5 p.m., or the close of business, whichever is later, on the next business day.

SEC. 15. Section 2759 of the Revenue and Taxation Code is amended to read:

2759. The first installment of one-fourth of the taxes on real and personal property on the secured roll, if not paid, is delinquent at 5 p.m., or the close of business, whichever is later, on October 10, and thereafter a delinquent penalty of 10 percent attaches to it.

SEC. 16. Section 2760 of the Revenue and Taxation Code is amended to read:

2760. The second installment of one-fourth of the taxes on real and personal property on the secured roll, if not paid, is delinquent at 5 p.m., or the close of business, whichever is later, on January 10, and thereafter a delinquent penalty of 10 percent attaches to it.

SEC. 17. Section 2761 of the Revenue and Taxation Code is amended to read:

2761. The third installment of one-fourth of the taxes on real and personal property on the secured roll, if not paid, is delinquent at 5 p.m., or the close of business, whichever is later, on March 10, and thereafter a delinquent penalty of 10 percent attaches to it.

SEC. 18. Section 2762 of the Revenue and Taxation Code is amended to read:

2762. The fourth installment of one-fourth of the taxes on real and personal property on the secured roll, if not paid, is delinquent at 5 p.m., or the close of business, whichever is later, on May 10, and thereafter a delinquent penalty of 10 percent attaches to it.

SEC. 19. Section 2763 of the Revenue and Taxation Code is amended to read:

2763. If October 10, January 10, March 10 or May 10 falls on a Saturday, Sunday or legal holiday, the time of delinquency is at 5 p.m., or the close of business, whichever is later, on the next business day.

SEC. 20. Section 2768 of the Revenue and Taxation Code is amended to read:

2768. Notwithstanding the provisions of Sections 2756, 2759 and 2763, the board of supervisors of any county which has adopted a resolution pursuant to this chapter may by resolution provide that

taxes on the secured roll are due and payable October 1, and the first installment shall be delinquent at the close of business on October 25. Thereafter, a delinquent penalty of 10 percent attaches to the installment. If October 25 falls on a Saturday, Sunday, or legal holiday, the time of delinquency is at 5 p.m., or the close of business, whichever is later, on the next business day.

A resolution adopted pursuant to this section shall provide that the auditor shall have to and including October 1 in which to deliver the secured roll to the tax collector as required by Section 2754.

SEC. 21. Section 2821 of the Revenue and Taxation Code is amended to read:

2821. Any person filing an affidavit of interest may apply to the tax collector to have any parcel separately valued on the current roll for the purpose of paying taxes. A county may, upon approval of the board of supervisors, require that the applicant notify the property owner.

The application shall be made during the current fiscal year, and shall set forth the fact that a duly executed and recorded deed, purchase contract, deed of trust, mortgage, or final decree of court describes the parcel sought to be separately valued. A county may, upon approval of the board of supervisors, prohibit these applications during the 10 working days preceding each tax installment delinquency date and during the 10 working days preceding June 30 of each year.

The application may request that the tax created by the assessment of personal property, or leasehold improvements, or possessory interests on the whole assessment be allowed to remain as a lien on the parcel sought to be separately valued.

If any lien not determined by the application of a tax rate on a valuation of property has been levied or placed on the whole assessment, the application may be accompanied by the certification of the taxing agency or revenue district authorized by law to levy or place the lien, setting forth the specific amount of that portion of the lien levied or placed on the whole assessment which is to continue to be levied or placed on the parcel sought to be separately valued.

The board of supervisors may provide that a parcel with a lien against it and other property, pursuant to the Improvement Act of 1911 (Division 7 (commencing with Section 5000) of the Streets and Highways Code) or the Improvement Bond Act of 1915 (Division 10 (commencing with Section 8500) of the Streets and Highways Code) will not be separately valued unless a request has been made to the agency levying the bond lien for a division of land and bond. A copy of the requested division of land and bond shall accompany the request for separate property tax valuation.

Any separations of property pursuant to this section are for valuing property for tax purposes only, and are not intended to create a legal building site or to supersede requirements pursuant to zoning, building, lot split or subdivision ordinances.

Once created, an individual interest parcel may be entered as a

separate assessment on subsequent assessment rolls until the time that ownership of the interest is conveyed or until the original applicant or his or her agent requests that the parcel be recombined.

Upon authorization by ordinance by the board of supervisors, the county may charge a fee for actual costs incurred for the processing of an application for separate assessment, and the initial and ongoing costs of separate assessment, billings, and mailings. Fees shall be subject to Chapter 12.5 (commencing with Section 54985) of Part 1 of Division 2 of Title 5 of the Government Code, and may be billed separately or prior to initial separate tax bills, or both, or collected on subsequent tax bills, and shall be deposited in the county's general fund.

SEC. 22. Section 2922 of the Revenue and Taxation Code is amended to read:

2922. (a) Taxes on the unsecured roll as of July 31, if unpaid, are delinquent at 5 p.m., or the close of business, whichever is later, on August 31 and thereafter subject to a delinquent penalty of 10 percent.

(b) Taxes added to the unsecured roll after July 31, if unpaid are delinquent and subject to a penalty of 10 percent at at 5 p.m., or the close of business, whichever is later, on the last day of the month succeeding the month of enrollment.

(c) Taxes transferred to the unsecured roll pursuant to any provision of law and already subject to penalties also transferred, shall be subject only to the additional penalties and costs prescribed in subdivisions (d) and (e), which shall attach beginning July 1 and on the first day of each month thereafter.

(d) Unsecured taxes remaining unpaid at 5 p.m., or the close of business, whichever is later, on the last day of the second month after the 10-percent penalty attaches shall be subject to an additional penalty of 1½ percent attaching on the first day of each succeeding month on the amount of the original tax. The additional penalties shall continue to attach until the time of payment or until the time a court judgment is entered for the amount of unpaid taxes and penalties, whichever occurs first.

(e) In addition to the penalties imposed by this section, the tax collector may collect actual costs of collection incurred by the county up to the time the delinquency is paid.

(f) When the last day of a month falls on Saturday, Sunday, or a legal holiday, any penalty to which the tax becomes subject on that date shall not attach if the tax collector receives payment in full by 5 p.m., or the close of business, whichever is later, on the next business day.

SEC. 23. Section 2922.5 of the Revenue and Taxation Code is amended to read:

2922.5. Notwithstanding Section 2922, with respect to taxes on the unsecured roll where an application for reduction in assessment has been filed pursuant to Section 1607 and the board reduces the assessment in dispute, Section 4985 shall apply.

If a taxpayer does not pay by the delinquency date established by Section 2922 and indicated on the unsecured assessment roll, interest at the rate of 1 percent per month on the unpaid tax shall be charged from that date to the date of correction. Taxes unpaid by 5 p.m., or the close of business, whichever is later, on the date established by Section 4985 are delinquent and thereafter a delinquent penalty of 10 percent attaches to them.

If taxes are not paid by 5 p.m., or the close of business, whichever is later, on the last day of the second succeeding month after the 10-percent penalty attaches, an additional penalty of 1½ percent attaches to them on the first day of each month thereafter until the time of payment or until the time a court judgment is entered for the amount of the unpaid taxes and penalties, whichever occurs first.

This section is not applicable to assessments made pursuant to Section 501, or to assessments made pursuant to Section 531.2 where the escape is the result of an act or omission of the assessee and to assessments made pursuant to Sections 531.3, 531.4, and 531.5.

SEC. 24. Section 2963 of the Revenue and Taxation Code is amended to read:

2963. Property shall not be seized and sold for taxes on the unsecured roll after three years from the date taxes due become delinquent. The limitation period shall be tolled for any period during which collection actions are prohibited by bankruptcy laws or rules, or by court order.

SEC. 25. Section 3007 is added to the Revenue and Taxation Code, to read:

3007. Civil actions for delinquent taxes or assessments pursuant to Section 3003 shall be commenced within three years of the date upon which unsecured taxes became delinquent. The limitation period of this section shall be tolled for any and all periods during which a civil action described by this section is prohibited by federal bankruptcy laws or rules, or by a court order.

SEC. 26. Section 3101 of the Revenue and Taxation Code is amended to read:

3101. If any unsecured tax, interest, or penalty imposed under this part is not paid by the last day of the month succeeding the delinquency date, the official collecting taxes on the unsecured roll may file, no sooner than 10 days after the mailing of the notice required in subdivision (b), in the office of the county clerk, without fee, a certificate specifying as follows:

(a) The fact that a notice of intent to file the certificate had been sent, by registered mail, to the assessee, at his or her last known address, not less than 10 days prior to the date of the certificate.

(b) The fact that the notice required in subdivision (a) set forth the following information:

(1) The name of the assessee.

(2) The description of the property assessed.

(3) The assessed value of the property.

(4) The fact that judgment will be sought in the amount of the tax,

penalty, and interest that is unpaid at the time of the filing of the certificate.

(5) The fact that, upon the issuance and recordation of that judgment, additional penalties will continue to accrue at the rate prescribed by law, and that any bond premium posted or other costs to enforce the judgment shall be an added charge.

(6) The fact that a recording fee in the amount set forth in Section 27361.3 of the Government Code will be required to be paid for the purpose of the recordation of any satisfaction of the judgment lien.

(c) The name of the assessee.

(d) The amount for which judgment is to be entered.

(e) The fact that the county has complied with all provisions of this part in the computation and the levy of the tax, penalty, and interest.

(f) The fact that a request is therein made for the issuance and entry of judgment against the assessee.

SEC. 27. Section 3103 of the Revenue and Taxation Code is amended to read:

3103. An abstract or a copy of the judgment with respect to unsecured taxes shall be recorded, without fee, in the office of the county recorder of any county. From the time of the recording, the amount of the tax, penalty, and interest set forth constitutes a lien upon all property of the assessee in the county, owned by him or her or afterward, and before the lien expires, acquired by him or her. The lien has the force, effect, and priority of a judgment lien and continues for 10 years from the date of the recording unless sooner released or otherwise discharged. The lien imposed by this section shall not be valid insofar as personal property is concerned as against a purchaser for value without actual knowledge of the lien.

SEC. 28. Section 3107 of the Revenue and Taxation Code is amended to read:

3107. (a) The judgment is satisfied and the lien removed when, but not before, the satisfaction of the judgment is recorded in the office of the county recorder. In addition to the judgment amount, and any additional penalty authorized by this part, the tax collector may collect the recording fee in the amount required by Section 27361.3 of the Government Code and transmit the amount of that fee to the county recorder together with the documents for release or discharge.

(b) The judgment is also satisfied and the lien removed when, but not before the tax is legally canceled and a satisfaction of judgment lien is recorded in the office of the county recorder. A recording under this subdivision shall be made without fee.

SEC. 29. Section 3351 of the Revenue and Taxation Code is amended to read:

3351. Annually, on or before June 8, the tax collector shall publish a notice of impending default for failure to pay taxes on real property, except tax-defaulted property and possessory interests, the taxes, assessments, penalties, and costs on which will have not been

fully paid by the close of business on the last business day of the fiscal year.

SEC. 30. Section 3362 of the Revenue and Taxation Code is amended to read:

3362. The published notice shall show:

(a) The date of the notice.

(b) That on July 1, five years or more will have elapsed since the property became tax defaulted.

(c) That, unless sooner redeemed or an installment plan of redemption is initiated, the property will be sold.

(d) That the power to sell for nonpayment of taxes arises if the property remains tax defaulted at 8 a.m. on July 1.

(e) That if the property is sold for nonpayment of taxes the right of redemption will terminate.

(f) The official who will furnish all information concerning redemption.

(g) The fiscal year for which the defaulted taxes were levied.

(h) A description of the property. The assessments contained in this notice shall be numbered in ascending numerical order.

(i) The amount of taxes originally declared in default opposite the description of the property.

(j) The name of the assessee on the current roll.

(k) The street address of the property, if any, shown on the county assessment records.

SEC. 31. Section 3365 of the Revenue and Taxation Code is amended to read:

3365. After the first publication of the notice and not less than 21 days nor more than 35 days before July 1, the tax collector shall send by registered mail to the last assessee of the tax-defaulted property at his or her last known address a notice of default and power to sell the property for nonpayment of taxes. The tax collector shall make a reasonable effort to ascertain the address of the last assessee of the tax-defaulted property, including, but not limited to, an examination of the assessment of this property on the rolls beginning with the year of delinquency to and including that of the last equalized roll, an examination of the most recent telephone books in the county in which the tax-defaulted property is located, and an examination of the telephone book covering the area of the last known address of the last assessee.

Any failure of the tax collector to make a reasonable effort to ascertain the address of the last assessee as required by this section shall not affect the validity of any subsequent sale to satisfy the lien of unpaid taxes.

SEC. 32. Section 4217 of the Revenue and Taxation Code is amended to read:

4217. Any person may elect to pay delinquent taxes in installments under this article at any time prior to 5 p.m. on June 30 of the fifth year after the property became tax defaulted, except that if payment of delinquent taxes in installments is started under this

article and the amount required to be paid in any fiscal year is not paid as required by this article, payments on property which, but for the installment redemption plan, would have been subject to a power of sale pursuant to Section 3691 during the calendar year in which default on the redemption plan occurs may not again be started under this article. All other payments may be started on or after July 1 of the fiscal year commencing after the fiscal year in which default occurred.

Persons electing to pay delinquent taxes in installments may be subject to a fee for processing their request.

The fee for payment of delinquent taxes in installments to the tax collector may be established by ordinance by the board of supervisors. The fee shall be governed by the provisions of Chapter 12.5 (commencing with Section 54985) of Part 1 of Division 2 of Title 5 of the Government Code and may be collected on the tax bill.

SEC. 33. Section 4377 of the Revenue and Taxation Code is amended to read:

4377. Any delinquent tax roll and original secured roll on which it is based containing the information set forth in the abstract list may be destroyed by the county officer or officers in possession of the rolls if (a) the destruction, in all cases, has first been approved by order of the board of supervisors of the county, (b) the abstract list has first been certified as correct and complete by the county auditor, and (c) a certified, permanent record on a substitute media has been prepared in accordance with Section 26205 of the Government Code and the substitute media will be retained for at least 12 years from the date of the creation of the original document. The substitute media may also be destroyed following the expiration of the 12-year retention period.

The abstract list prepared under Section 4373, or any photographic record thereof, shall be retained by the tax collector for at least two years after the time the lien has been removed.

SEC. 34. Section 4673.1 of the Revenue and Taxation Code is amended to read:

4673.1. After satisfaction of the amount specified in Sections 4672, 4672.1, and 4673, the proceeds shall be distributed as follows:

(a) An amount of the proceeds up to but no greater than the amount required, at the time of sale, to redeem the property from tax default and the sale to any taxing agency entitled to share in the proceeds shall be distributed as follows:

(1) A pro rata share shall be distributed to each assessment fund in an amount bearing the same proportion as the assessment due each fund bears to the total amount of taxes and assessments necessary to redeem the property at the time of sale.

(2) The remaining balance of the proceeds to be distributed under this section shall be distributed to each tax fund in an amount bearing the same proportion to the balance remaining as the tax rate for each fund bears to the total tax rate applicable to the property for the fiscal year preceding that in which the property was sold.

(b) After satisfaction of the amounts specified in subdivision (a), an amount of the proceeds necessary to satisfy current taxes and assessments and applicable penalties and costs thereon for the fiscal year in which the tax sale is held shall be distributed as provided in Chapter 1a (commencing with Section 4653) of this part. Current taxes and assessments referred to herein include taxes and assessments which would have been levied on the property if the property were not tax-deeded to any taxing agency and remains subject to sale by, or redemption from, the taxing agency.

SEC. 35. Section 4831 of the Revenue and Taxation Code is amended to read:

4831. (a) Any error resulting in incorrect entries on the roll may be corrected under this article. The correction may be made at any time after the roll is delivered to the auditor but shall be made within four years after the making of the assessment which is being corrected. This section does not apply to either of the following:

(1) Errors involving the exercise of value judgments.

(2) Escape assessments caused by the assessee's failure to report the information required by Article 2 (commencing with Section 441) of Chapter 3 of Part 2.

If any error referred to in this subdivision is discovered as the result of an audit of a taxpayer's books and records, that error may be corrected at any time prior to the expiration of six months after the completion of the audit.

(b) Taxes which are not a lien or charge on the property assessed may be transferred from the secured roll to the unsecured roll of the corresponding year by the county auditor. These taxes shall be collected in the same manner as other delinquent taxes on the unsecured roll and shall be subject to delinquent penalties in the same manner as taxes transferred to the unsecured roll under Section 5090. The statute of limitations for the collection of those taxes shall commence to run from the date of transfer.

SEC. 36. Section 4832.1 of the Revenue and Taxation Code is amended to read:

4832.1. If the amount of any tax or special assessment is understated on the roll by five dollars ($5) or less due to clerical error of the auditor, the amount by which such tax or special assessment is understated may be canceled by the auditor. After cancellation by the auditor, the amount appearing on the roll shall in each instance be deemed the correct amount of that tax or special assessment for all purposes and upon payment of that amount the tax collector shall show the tax or special assessment as paid in full. The auditor need not note the cancellation on the roll. Whenever a portion of the rate of any tax or special assessment is canceled in the manner provided by this section, written consent of any city attorney shall not be required.

SEC. 37. Section 4834 of the Revenue and Taxation Code is amended to read:

4834. Corrections authorized under this article shall be made by

the auditor.

SEC. 38. Section 4834.5 of the Revenue and Taxation Code is amended to read:

4834.5. Clerical errors on the delinquent roll may be corrected by the tax collector at any time before the county has disposed of the property. This section shall be construed as an additional procedure to that set forth in Sections 4946 to 4948, inclusive.

SEC. 39. Section 4836.5 of the Revenue and Taxation Code is amended to read:

4836.5. In the event any correction authorized under this article has the effect of increasing the assessment, the auditor shall apply a tax rate to that increase at whatever tax rate was in existence in the year in which the error was made and shall apply the assessment ratio that was in existence in the year in which the error was made. All increased amounts of taxes shall be entered on the roll prepared or being prepared for the current assessment year and shall thereafter be treated and collected like other taxes on the roll. However, if the correction affects taxes on the secured roll for any year and subsequent to the entry of the original assessment but prior to the date of the correction the real property on which the taxes constitute a lien has been transferred or conveyed to a bona fide purchaser for value or becomes subject to a bona fide encumbrance for value, the increased amount of taxes shall not create, impose or constitute a lien on the real property and shall be entered on the unsecured roll in the name of the assessee at the time the error was made and shall thereafter be treated and collected like other taxes on the roll.

The entry on the unsecured roll shall be followed with "Correction to account or Parcel Number _____ for the 19__-__ assessment year pursuant to Section(s) _____ of the Revenue and Taxation Code." The foregoing entry may be made on a document separate from the roll if reference is made on the roll to the document wherein the entry is made.

SEC. 40. Section 4837.5 of the Revenue and Taxation Code is amended to read:

4837.5. Notwithstanding any other provision of law, taxes due, whether secured or unsecured, on escape assessments for prior fiscal years, where the error causing the escape assessment was not that of the assessee, or taxes due because of the correction of any assessor's error for prior fiscal years under this article, where that error was made without fault on the part of the assessee, may be paid over a four-year period at the option of the assessee if: (1) the additional tax is over five hundred dollars ($500), and (2) a written request for installment payment is filed by the assessee with the tax collector prior to the time the second installment of taxes on the secured roll becomes delinquent, or by the last day of the month following the month in which the tax bill is mailed, whichever is later. The tax collector shall include with the property tax bill a notice of the payment provisions of this section. For unsecured taxes, the written request for installment payment shall be filed with the tax collector

prior to the date on which those taxes become delinquent.

If payment by installments is requested, 20 percent or more of the tax shall be paid no later than the deadline for filing the written request. The current taxes and prior year taxes with penalties and costs thereon shall be paid with or prior to the initial installment payment. In each succeeding fiscal year, the assessee shall pay, before the delinquency date of the second installment of current taxes on the secured roll, all current year taxes, and a sum at least sufficient to reduce the outstanding balance of the tax by 20 percent of the original amount. In the case of unsecured taxes, the required annual installment shall be paid on or before August 31.

No penalties shall be charged so long as installment payments are made timely; and, in the case of secured taxes, so long as all payments are made timely, an affidavit regarding the property shall not be published pursuant to Section 3371.

If any installment is not paid timely, or if the property on the secured roll becomes tax defaulted, or if the property changes ownership, or if taxes for the property on the unsecured roll are not paid before becoming delinquent, the balance of the tax remaining to be paid shall immediately become due and payable, and no further installment payments for that escape assessment or correction shall be authorized. The tax collector shall inform the auditor of the defaulted, off-roll installment plan and of the delinquent amount remaining unpaid.

The auditor shall add the unpaid balance, plus penalties and costs thereon, to the current roll, adjust the tax collector's charge accordingly, and the remaining balance of the tax shall become subject to all of the provisions of this division applicable to delinquent taxes.

The tax collector shall maintain records listing the current status of all the installment accounts authorized under this section. The status of each installment account shall be entered on the current roll and the tax collector may file for record with the county recorder a certificate pursuant to Section 2191.3.

When the installment account is paid in full before 5 p.m. on June 30 of the year in which the account has become defaulted and the tax collector has filed for record a certificate of lien, the tax collector shall also file for record a release of that lien. Where the account is not paid in full until after June 30 of the year in which the account became defaulted, the filings of the certificates of lien and release of lien shall be subject to recording fees charged to the taxpayer.

SEC. 41. Section 4840 of the Revenue and Taxation Code is amended to read:

4840. On receipt of satisfactory, verified, written evidence that taxes have been entered on the secured roll as a lien on real property on which they are not legally a lien, the assessor shall transmit the evidence and his or her cancellation to the auditor. On direction of the board of supervisors, the auditor shall cancel the entry as a lien on that real property and reenter such taxes as follows:

(a) If the assessee has real property sufficient, in the assessor's opinion, to secure the payment of the taxes, as a lien on real property.

(b) Where there is not sufficient real property to secure the taxes:

(1) If it is state-assessed property, on the secured roll.

(2) In all other cases, on the unsecured roll.

SEC. 42. Section 4985 of the Revenue and Taxation Code is amended to read:

4985. Any delinquent penalty, cost, redemption penalty, interest, or redemption fee, heretofore or hereafter attached, shall upon satisfactory proof submitted by the tax collector, the auditor, or the assessor, be canceled by the auditor upon a showing that the delinquent penalty, cost, redemption penalty, interest, or redemption fee has attached because of an error of the tax collector, the auditor, or the assessor, or because of their inability to complete valid procedures initiated prior to the delinquency date, and upon the further showing that payment of the corrected or additional amount was made within 30 days from the date that the correction was entered on the roll or abstract record.

SEC. 43. Section 4985.2 of the Revenue and Taxation Code is amended to read:

4985.2. Any penalty, costs, or other charges resulting from tax delinquency may be canceled by the auditor or the tax collector upon a finding of any of the following:

(a) Failure to make a timely payment is due to reasonable cause and circumstances beyond the taxpayer's control, and occurred notwithstanding the exercise of ordinary care in the absence of willful neglect, provided the principal payment for the proper amount of the tax due is made no later than June 30 of the fiscal year following the fiscal year in which the tax became delinquent.

(b) There was an inadvertent error in the amount of payment made by the taxpayer, provided the principal payment for the proper amount of the tax due is made within 10 days after the notice of shortage is mailed by the tax collector.

(c) The cancellation was ordered by a local, state, or federal court.

SEC. 44. Section 4986 of the Revenue and Taxation Code is amended to read:

4986. (a) All or any portion of any tax, penalty, or costs, heretofore or hereafter levied, shall, on satisfactory proof, be canceled by the auditor if it was levied or charged:

(1) More than once.

(2) Erroneously or illegally.

(3) On the canceled portion of an assessment that has been decreased pursuant to a correction authorized by Article 2 (commencing with Section 4876) of Chapter 2.

(4) On property which did not exist on the lien date.

(5) On property annexed after the lien date by the public entity owning it.

(6) On property acquired by the United States, the state, or by any county, city, school district or other public entity, to the extent

provided in Article 5 (commencing with Section 5081).

(7) On that portion of an assessment in excess of the value of the property as determined by the assessor pursuant to Section 469.

(b) No cancellation under paragraph (2) of subdivision (a) shall be made in respect of all or any portion of any tax, or penalties or costs attached thereto, collectible by county officers on behalf of a city without the written consent of the city attorney or other officer designated by the city council unless the city council has authorized the cancellation by county officers. The resolution shall remain effective until rescinded by the city council.

SEC. 45. Section 4986.8 of the Revenue and Taxation Code is amended to read:

4986.8. (a) On recommendation of the tax collector, the auditor may cancel any tax assessment, special district tax, or special assessment if the amount is so small as not to justify the cost of collection.

(b) The total amount which may be canceled pursuant to this section shall not exceed twenty dollars ($20) per parcel.

(c) Any penalties, costs, or fees that are the result of nonpayment of any tax which is canceled pursuant to this section may also be canceled.

SEC. 46. Section 5089 of the Revenue and Taxation Code is amended to read:

5089. The board of supervisors of a county may prescribe that, where the amount of unpaid taxes, penalties, and costs to be transferred to the unsecured roll pursuant to this article is less than twenty dollars ($20) with respect to a given fiscal year, the unpaid taxes, penalties, and costs shall be canceled rather than transferred to the unsecured roll.

SEC. 47. Section 5096 of the Revenue and Taxation Code is amended to read:

5096. Any taxes paid before or after delinquency shall be refunded if they were:

(a) Paid more than once.

(b) Erroneously or illegally collected.

(c) Illegally assessed or levied.

(d) Paid on an assessment in excess of the ratio of assessed value to the full value of the property as provided in Section 401 by reason of the assessor's clerical error or excessive or improper assessments attributable to erroneous property information supplied by assessee.

(e) Paid on an assessment of improvements when the improvements did not exist on the lien date.

(f) Paid on an assessment in excess of the equalized value of the property as determined pursuant to Section 1613 by the county board of equalization.

(g) Paid on an assessment in excess of the value of the property as determined by the assessor pursuant to Section 469.

SEC. 48. Section 5096.5 of the Revenue and Taxation Code is amended to read:

5096.5. Any taxes paid which were not erroneously or illegally collected under the law as it existed at the time of collection, but for which an exemption is provided by a retroactive constitutional amendment, shall be refunded after compliance with the provisions of this article, except that the claim for refund may be filed at any time within four years after the date such amendment became effective, or the date that this section became effective, whichever is later.

SEC. 49. Section 5097.2 of the Revenue and Taxation Code is amended to read:

5097.2. Notwithstanding Sections 5096 and 5097, any taxes paid before or after delinquency may be refunded by the county tax collector or the county auditor, within four years after the date of payment, if:

(a) Paid more than once.

(b) The amount paid exceeds the amount due on the property as shown on the roll.

(c) The amount paid exceeds the amount due on the property as the result of corrections to the roll or cancellations after those taxes were paid.

(d) In any other case, where the claim for refund is made under penalty of perjury and is for an amount less than ten dollars ($10).

(e) The amount paid exceeds the amount due on the property as the result of a reduction attributable to a hearing before an assessment appeals board or an assessment hearing officer.

CHAPTER 533

An act to authorize, by ordinance, the creation of the Odessa Water District, relating to water.

[Approved by Governor October 5, 1991 Filed with Secretary of State October 7, 1991.]

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

SECTION 1. This act shall be known and may be cited as the Odessa Water District Act.

PART 1. INTRODUCTORY PROVISIONS

CHAPTER 1. LEGISLATIVE FINDINGS

Sec. 101. The Legislature finds and declares that water undersupply problems in the Barstow area require the development of water resources in cooperation with the Mojave Water Agency and that the enactment of this act is necessary for the conservation, development, control, and use of water for the public good,

consistent with the Mojave Water Agency's plans, policies, standards, and water management plan criteria, and in compliance with the Cortese-Knox Local Government Reorganization Act of 1985.

CHAPTER 2. DEFINITIONS

Sec. 201. Unless the context otherwise requires, the definitions of this chapter govern the construction of this act.

Sec. 202. "Odessa Water District" or "district" means the Odessa Water District established under this act.

Sec. 203. "Board of directors" or "board" means the directors designated pursuant to Section 501.

Sec. 204. "Public agency" means any city, county, municipal water district, municipal utility district, public utility district, county water district, or county water authority.

Sec. 205. "County water district" means any county water district incorporated under the County Water District Law (Division 12 (commencing with Section 30000) of the Water Code).

Sec. 206. "City" means the City of Barstow, California.

Sec. 207. "Cortese-Knox Local Government Reorganization Act of 1985" means Division 3 (commencing with Section 56000) of Title 5 of the Government Code.

PART 2. FORMATION

CHAPTER 1. CREATION AND BOUNDARIES

Sec. 401. The district is organized for the purpose of developing, storing, and distributing water to distributors and domestic purveyors in the district for all beneficial purposes in cooperation with the Mojave Water Agency, consistent with that agency's plans, policies, standards, and water management plan criteria, and in compliance with the Cortese-Knox Local Government Reorganization Act of 1985. The water shall augment the existing water supply for distribution within the district.

Sec. 402. The boundaries of the district are the corporate boundaries of the City of Barstow, California. The district may include territory outside these boundaries, as established by this act.

CHAPTER 2. ORDINANCE OF INCORPORATION

Sec. 403. The City Council of the City of Barstow may adopt an ordinance declaring that the public convenience and necessity require the creation of the district. The ordinance shall state that it is proposed to create the district under this act.

CHAPTER 3. FORMATION ELECTION

Sec. 404. Within 120 days after approval by the local agency formation commission, the city clerk shall call and provide for the holding of a special election at which the proposition of the incorporation of the district shall be submitted to the electors residing within the city for ratification or rejection. The election may be held separately or may be consolidated or held concurrently with any other election or elections authorized by law at which the electors residing in the city are entitled to vote.

CHAPTER 4. ESTABLISHMENT OF DISTRICT

Sec. 405. If the vote is in favor of establishment of the district, the city council shall certify to the local agency formation commission that a majority of the electors voting upon the proposition have voted affirmatively.

PART 3. INTERNAL ORGANIZATION

CHAPTER 1. BOARD OF DIRECTORS

Sec. 501. The board shall consist of the members of the City Council of the City of Barstow. The board is hereby authorized to adopt reasonable rules and regulations to facilitate the exercise of its powers and duties. If territory is annexed to the district, two additional members residing in the annexed territory shall be elected to the board.

Sec. 502. Each member of the board shall serve without additional compensation, except each member shall be allowed his or her actual, necessary, and reasonable traveling expenses.

Sec. 503. The board shall elect a chairperson annually who shall preside at all meetings of the board and, in case of his or her absence or inability to act, the members present shall, by an order entered in their records, select one of its members to act as chairperson pro tempore.

Sec. 504. A majority of the members of the board shall constitute a quorum for the transaction of business and no act of the board shall be valid or binding unless a majority of those members of the board present and voting concur in the act.

CHAPTER 2. OFFICERS AND EMPLOYEES

Sec. 505. The city manager, city clerk, city treasurer, city engineer, city planning director, city attorney, and their assistants, deputies, clerks, and employees shall perform the ex officio duties required by the board to carry out this act and shall perform these duties, unless otherwise provided by the board, without additional compensation.

CHAPTER 3. FUNDS AND ACCOUNTS

Sec. 506. The treasurer may deposit funds of the district in banks in the manner provided by law for the deposit of moneys of a municipality or other public or municipal corporation.

Sec. 507. The board may require and fix the amount of all official bonds necessary for the protection of the funds and property of the district.

CHAPTER 4. SELECTION OF PROJECTS

Sec. 508. The district shall determine which projects or works of improvement shall be carried out and shall determine, as to each project or work of improvement, that it is one of the following:

(a) For the common benefit of the district as a whole.

(b) For the common benefit of participating territories, as added to the district by this act.

Sec. 509. Any project or works of improvement shall be in cooperation with the Mojave Water Agency and shall be consistent with that agency's plans, policies, standards, and water management plan criteria.

Sec. 510. The board shall adopt a resolution setting forth the proposed project, engineering estimates of the cost of the project, and fixing a time and place for a public hearing relating to the proposed project. Notice of the hearing shall be by publication once a week for two consecutive weeks prior to the hearing. The last publication of the notice shall be at least seven days before the hearing in a newspaper of general circulation designated by the board.

PART 4. PURPOSES AND POWERS

CHAPTER 1. POWERS GENERALLY

Sec. 601. The district may exercise powers which are expressly granted by this act, together with powers which are reasonably implied from the act and necessary and proper to carry out the purposes of the district.

Sec. 602. The district shall have perpetual succession. The district shall adopt a corporate seal and may alter the seal at pleasure.

Sec. 603. The district may enter into contracts and employ and retain personal services.

Sec. 604. The district may create, establish, and maintain offices and positions which are necessary and convenient for the transaction of the business of the district.

Sec. 605. The district may appoint and employ officers, attorneys, agents, and employees whom the board determines to be necessary and convenient.

Sec. 606. The district may borrow money and incur indebtedness and issue bonds or other evidence of indebtedness.

CHAPTER 2. WATER

Sec. 608. The district may do all of the following in cooperation with the Mojave Water Agency, consistent with the Mojave Water Agency's plans, policies, standards, and water management plan criteria, and in compliance with the Cortese-Knox Local Government Reorganization Act of 1985:

(a) Acquire water and water rights within or without the state.

(b) Develop, store, and transport water.

(c) Provide, sell, and deliver water for all beneficial purposes.

(d) Fix the rates for water, and the amount of water standby or availability service charge or assessment.

(e) Acquire, construct, operate, and maintain any and all works, facilities, improvements, and property necessary or convenient to the exercise of the powers granted by this act.

Sec. 609. (a) The district may, by contract, provide, sell, and deliver water and water service in cooperation with the Mojave Water Agency, consistent with the Mojave Water Agency's plans, policies, standards, and water management plan criteria, and in compliance with the Cortese-Knox Local Government Reorganization Act of 1985. The contract may be for permanent service, but shall provide for the furnishing of the water or water service upon terms and conditions and at rates which will apportion an equitable share of the capital cost and operating expense of the district's works to the contractee. Every contract shall provide that at the end of three years from the date of its execution, and every three years thereafter, there shall be a readjustment of the contract, upon the demand of either party to the contract, either upward or downward as to rates, as the board may find to be just and reasonable in order to effectuate the equitable apportionment of the capital costs and operating expense.

(b) The district may provide, sell, and deliver water and water service, by a contract not to exceed 25 years, to any private corporation or public agency. Every contract shall provide that agricultural wastewater, brackish groundwater, or other water not suitable for domestic, municipal, or agricultural purposes shall be utilized for powerplant cooling to the extent available, if the water meets reasonable water quality requirements for the powerplant facility. The wastewater or brackish water shall be considered as a replacement of fresh water used for this purpose.

(c) No contract shall be entered into pursuant to this act to provide, sell, and deliver water and water service for use outside the district boundaries within the service area of any agency which has a contract with a state water supply contractor under the State Water Resources Development System without the prior written consent of the state water supply contractor and the Director of Water

Resources.

(d) All water contracted for under this section shall be deemed not to be surplus water available for sale pursuant to Section 610.

Sec. 610. The district may provide, sell, and deliver surplus water not needed or required for all beneficial purposes within the district, but shall give preference to uses within the district. The supplying of the surplus water shall in every case be subject to the paramount right of the district to discontinue the supply in whole or in part, and to take and hold or to provide, sell and deliver, the water for all beneficial purposes within the district, upon one year's written notice to the purchaser or user of the surplus water. The notice shall be given by the board if the board determines and declares, by resolution, adopted by a four-fifths vote, that the water is needed or required for all beneficial purposes within the district.

Sec. 611. (a) The board shall fix the rate or rates at which water shall be sold. The rates, in the discretion of the board, may differ with reference to the different sources from which water is obtained by the district.

(b) Prior to either approving an increase in an existing rate or rates or initially imposing a new rate, the board shall hold at least one public meeting at which oral or written presentations may be made. Notice of the time and place of the meeting, including a general explanation of the matter to be considered, and a statement that the information regarding the rates is available, shall be published in a paper of general circulation designated by the board, 14 days prior to the meeting. Notice shall also be mailed at least seven days prior to the meeting to any interested party who files a written request with the clerk of the board for mailed notice of the meeting on new or increased rates. Any written request for such mailed notices shall be valid for one year from the date on which it is filed unless a renewal request is filed. The board may establish a reasonable annual charge for sending those notices based on the estimated cost of providing the service.

(c) At least 10 days prior to the meeting the board shall make available to the public data indicating the rate and information as specified in Section 612.

Sec. 612. (a) The board, so far as practicable, shall fix the rate or rates for water that will result in revenue which, together with revenue from any water standby or availability service charge or assessment, will do all of the following:

(1) Pay the operating expenses of the district.

(2) Provide for repairs and maintenance.

(3) Provide for the payment of the purchase price or other charges for property or services or other rights acquired by the district.

(4) Provide for the payment of the interest and principal of the bonded debt subject to the applicable provisions of this act authorizing the issuance and retirement of bonds.

(b) The rates, subject to the provisions of this chapter, shall be

uniform for like classes of service throughout the district.

Sec. 613. The board may, from time to time, impose a water standby or availability charge pursuant to the Uniform Standby Charge Procedures Act (Chapter 12.4, (commencing with Section 54984) of Part 1 of Division 2 of Title 5 of the Government Code). The board shall determine the amount of revenue to be raised by the service charge. Factors that may be considered include, but are not limited to, historical water deliveries by the district, projected water service demands by the proposed development or project, contracted demands of the district, service connection capacity, acreage, property parcels, population, and assessed valuation.

CHAPTER 3. PROPERTY

Sec. 614. The district may take by grant, purchase, bequest, devise, or lease, and may hold, enjoy, lease, sell, or otherwise dispose of, any and all real and personal property of any kind within or without the district and within and without the state necessary or convenient to the full exercise of its powers. The district may acquire, construct or operate, control, and use any and all works, facilities and means necessary or convenient to the exercise of its powers, both within and without the district and within and without the state, and may do and perform any and all things necessary or convenient to carry out any powers of the district.

Sec. 615. The district may, within or outside the district within the state, acquire by purchase condemnation, or other legal means all property or rights in property necessary or proper for district works or purposes of the district. Eminent domain proceedings may be brought by the district for these purposes pursuant to Title 7 (commencing with Section 1230.010) of Part 3 of the Code of Civil Procedure.

Sec. 616. The district may construct and maintain works and establish and maintain facilities across or along any public street or highway and in, upon, or over any vacant public lands which are the property of the district. The district may construct works and establish and maintain facilities across any stream of water or water course. The district shall promptly restore any street or highway to its former state of usefulness and shall not use the street or highway in a manner which completely or unnecessarily impairs its usefulness.

PART 5. FINANCIAL PROVISIONS

CHAPTER 1. FUNDS AND ACCOUNTS

Sec. 701. Any funds of the district may be deposited in the city treasury subject to disbursement as city funds are disbursed, except that the disbursal shall be pursuant to the provisions of this act, under the direction of the city auditor or other fiscal officer as is appointed

by the board.

Sec. 702. The district may establish and maintain any separate funds and accounts as necessary to carry out this act.

Sec. 703. The district may make any transfers, for the purposes of a loan, from one fund to another fund of the district, upon terms and conditions as the board may determine appropriate and to the extent permitted by law.

Sec. 704. The city auditor or other fiscal officer appointed by the board may invest any funds of the district in any security, debenture, bond, or deposit permitted and allowed by law for the investment of funds of a political subdivision of the state.

CHAPTER 2. IMPROVEMENT BONDS

Sec. 705. The district may issue improvement bonds pursuant to the Improvement Act of 1911 (Division 7 (commencing with Section 5000) of the Streets and Highways Code), the Improvement Bond Act of 1915 (Division 10 (commencing with Section 8500) of the Streets and Highways Code), the Municipal Improvement Act of 1913 (Division 12 (commencing with Section 10000) of the Streets and Highways Code), or the Refunding Assessment Bond Act of 1935 (Chapter 732 of the Statutes of 1935).

CHAPTER 3. SPECIAL BENEFIT BONDS

Sec. 706. The board may determine that a bonded indebtedness should be incurred to pay the cost of any project which will confer a special benefit on the district. The principal and interest on the special benefit bonds shall be paid by revenue derived from an annual benefit assessment levied on the land benefited by the project for which the bonds were issued. Before adopting a resolution issuing special benefit bonds, the board shall adopt a resolution of intention stating the intention to issue the special benefit bonds, the proposed amount of the bonds, the proposed denomination and maximum rate of interest of the bonds, a description of the proposed project for which the bonds shall be issued, and a description of the area to receive a special benefit from the proposed project and in which special benefits shall be levied to pay the principal and interest on the bonds. The resolution shall also state the time and place for a hearing by the board on the proposal, at which time any interested person may appear and be heard.

Sec. 707. Notice of the hearing shall be given by publishing a copy of the resolution of intention in a newspaper of general circulation, designated by the board pursuant to Section 6066 of the Government Code, the first publication to be at least 14 days prior to the time fixed for the hearing. The hearing may be consolidated with a hearing on any other proposal affecting the same area. At the time and place so fixed, or at any time or place to which the hearing is continued, the board shall hold the hearing provided for by the resolution, at which

time any interested person may appear and be heard concerning a matter set forth in the resolution or any matter material to the resolution. Upon the conclusion of the hearing, the board may abandon the proposal, or order the election on the proposal within the area affected, unless prior to the conclusion of the hearing, or any continued hearing, written protest against the proposal signed by a majority in number of the eligible voters within the affected area are filed with the board, in which event further proceedings relating to the proposal shall be suspended for not less than six months following the date of the conclusion of the hearing. If there is no majority protest, the board shall not proceed with the proposal before holding an election within the affected area. A majority of the votes cast at the election shall be required to approve the proposal to issue the bonds.

Sec. 709. The board shall, pursuant to the provisions of this act, prescribe by resolution the form of the bonds, which shall include a designation of the district, and of the interest coupons attached to the bonds. The bonds shall be payable annually or semiannually at the discretion of the board each and every year on a day and date at a place or places to be fixed by the board and designated in the bonds, together with interest on all sums unpaid on that date until the whole of the indebtedness shall be paid.

Sec. 710. The board may divide the principal amount of any issue into two or more series and fix different dates for the bonds of each series. The bonds of one series may be made payable at different times from those of another series. The maturity of each series shall comply with this section. The board may fix a date not more than two years from the date of issuance for the earliest maturity of each issue of series.

Sec. 711. The bonds shall be issued in the denomination determined by the board.

Sec. 712. The bonds shall be payable on the date and at the place fixed in the bonds, and at the interest rate specified in the bonds, and shall be made payable annually or semiannually.

Sec. 713. The bonds shall be numbered consecutively and shall be signed by the chairperson of the board and countersigned by the auditor or other fiscal officer of the district, and the seal of the district shall be affixed to the bonds. Either or both signatures may be printed, engraved, or lithographed.

Sec. 714. The interest coupons, if any, of the bonds shall be numbered consecutively and signed by the auditor or other fiscal officer, or the officer's printed, engraved, or lithographed signature.

Sec. 715. The proceeds from the sale of bonds shall be paid into the district treasury to the credit of the project funds, and expended only for the purpose for which the indebtedness was created. In the alternative, the proceeds of the sale of the bonds may be placed in the treasury of the city to the credit of the district, and the proper record of the transaction shall be placed upon the books of the city treasurer, and the bond funds shall be applied exclusively to the

purposes mentioned in the resolution calling for the special bond election, subject to the provisions of this act. Payments from bond funds shall be made upon demands prepared, presented, allowed, and audited in the same manner as demands upon the funds of the district. District revenue may be invested in any manner permitted by law for district investments, and any interest earned on the bond proceeds shall be credited to the project fund and expended only for the purpose for which the indebtedness was created.

Sec. 716. Any bonds issued under this chapter, and the interest thereon, shall be paid solely by revenue derived from annual benefit assessments levied as provided in this act.

Sec. 717. Whenever bonds have been authorized by the district, and the proceeds of the sale of the bonds have been expended as authorized, and the board by resolution determines that additional bonds shall be issued for carrying out any of the purposes of this act, the board may proceed as provided in this chapter for the issuance of bonds.

Sec. 718. The board may, by resolution, determine that new bonds should be issued for the purpose of refunding any or all of the bonds outstanding of the district. The procedure shall be the same as the procedure upon an original issue of bonds. The refunding bonds may be issued and sold in the manner and form prescribed for an original issue of bonds, and may, if the holders of bonds of an original issue and the board agree, be exchanged for the original bonds if the face value of the refunding bonds exchanged do not exceed the face value of the original bonds. The board may raise money to pay principal and interest of the refunding bonds in the same manner as prescribed for the payment of bonds of an original issue.

Sec. 719. Any bonds, original or refunding, may be made callable by resolution of the board adopted at, or prior to, the time of issuing the bonds, and providing for the calling and redemption of the bonds, in numerical order, or by lot, on any interest payment date prior to their fixed maturity, at a premium not exceeding 6 percent above the par value of the bonds and accrued interest. If any bonds are so made callable, a statement to that effect shall be set forth on the face of the bond. Notice of any redemption shall be published in the district pursuant to Section 6063 of the Government Code. The first publication of the notice shall be not less than 30 nor more than 90 days prior to the date fixed for the redemption. After the date fixed for the redemption, if the district has provided funds available for payment of the principal and interest of the bonds so called, interest on the bonds shall thereafter cease.

Sec. 720. (a) The bonds shall be sold at a public sale to the lowest bidder, after notice of the sale has been given by publication in the district, pursuant to Section 6061 of the Government Code, at least one week prior to the sale and after any other notice which the board may determine is proper.

(b) The board shall determine the manner of making, submitting,

and opening bids, and conducting the sale, and the terms of the bids. The board may reject any and all bids which in the judgment of the board are not in the best interest of the district. If no bids are received, or if all bids are rejected, the board may either readvertise or sell the bonds at private sale.

Sec. 721. If a proposition for issuing bonds submitted at any election under this chapter fails to receive the requisite number of votes of the eligible voters voting at the election to incur the indebtedness for the purpose specified, the board shall not for six months after the election call or order another election in the same area for incurring indebtedness and issuing bonds under this chapter for the same purposes.

Sec. 722. The interest on the bonds is exempt from taxes as income.

Sec. 723. Any bond issued under this chapter shall be legal investments for all trust funds, and for the funds of all insurance companies, commercial and savings banks, trust companies, and state schools. If any money may by law be invested in bonds of cities, cities and counties, counties, school districts, or municipalities in the state, the money may be invested in bonds of the district, issued pursuant to this act. If bonds of cities, cities and counties, counties, school districts, or municipalities may by law be used as security for the performance of any act, the bonds of the district may be used as security.

Sec. 724. The repeal or amendment of this act, or the dissolution or change in the boundaries of the district, shall not in any way affect or release any of the land in the district from the district's liability relating to the obligations of any outstanding bonds or indebtedness or contracts for which the land is in any way security, until all bonds and outstanding indebtedness and contracts have been fully paid or discharged.

Sec. 725. This chapter shall apply only to the issuance of special benefit bonds issued pursuant to this chapter.

CHAPTER 4. REVENUE BONDS

Sec. 726. If the board, by resolution, determines that a bonded indebtedness to pay for the acquisition or construction of any project or work for any purposes of the district, or for refunding any outstanding bonds, should be incurred and can be repaid and liquidated as to both principal and interest from revenues designated by the board, the district may define the project or work as an "enterprise" consistent with the definition in Section 54309 of the Government Code, and may issue revenue bonds pursuant to the Revenue Bond Law of 1941 (Chapter 6 (commencing with Section 54300) of Part 1 of Division 2 of Title 5 of the Government Code), and for that purpose the district shall be considered a "local agency," as defined in Section 54307 of the Government Code.

CHAPTER 5. SHORT-TERM BORROWING

Sec. 727. The district may borrow money and incur indebtedness in the manner set forth in this chapter by action of the board and without the necessity of calling and holding an election in the district.

Sec. 728. Indebtedness may be incurred pursuant to this chapter for any purpose for which the district is authorized to expend funds.

Sec. 729. Indebtedness incurred under this chapter shall be evidenced by warrants of the district payable not to exceed five years from their date and bearing interest at a rate not to exceed the maximum interest permitted for the sale of bonds of the district.

Sec. 730. The warrants shall be issued by the district after the adoption by a four-fifths vote of all of the members of the board of a resolution setting forth the form of the warrant, the maturity date or dates of the warrant, and the manner of execution of the warrant.

Sec. 731. The board may in its resolution require that the warrant be subject to call and redemption prior to maturity, at the option of the district, at prices fixed in the resolution, not exceeding a premium of 6 percent of the par value of the warrants subject to redemption. The resolution shall fix a method of giving notice of redemption to the holders of warrants to be redeemed and the price at which the warrants shall be subject to redemption. Warrants subject to call and redemption prior to maturity shall contain a recital to that effect on their face.

Sec. 732. The warrants issued shall be offered for public sale upon notice inviting sealed bids. The notice shall be given by publication once in a newspaper of general circulation in the county and the sale shall not be held before 10 days after the publication. The board may reject all bids received on public sale and either readvertise or sell the warrants at private sale. The district may sell the warrants at a price below par value not to exceed 6 percent of the par value.

CHAPTER 6. CITY FUNDING

Sec. 733. For the purpose of supplementing the general operating revenues of the district, upon request made by the board, the city council may grant funds from the city general fund to the district without reimbursement from the district, for use for any purpose of the district for which the city may itself expend funds, including, but not limited to, expenses incurred or estimated to be incurred during the next fiscal year for each of the following:

(a) The formation and administration of the district.

(b) The preparation of a comprehensive water resources and drainage management plan for the district for coordinating and managing the supply and distribution of water for all beneficial uses within the district and for coordinating and managing the control and disposal of drain, flood, and storm water within the district, and

the formation of zones within the district for those purposes.

(c) The acquisition, development, distribution, and sale of water to the inhabitants of the district for all beneficial uses, including the acquisition of water rights by purchase or condemnation, and the acquisition, construction, repair, operation, and maintenance of works.

(d) The acquisition, construction, repair, operation, and maintenance of works for control and disposal of drain, storm, and flood water within the district.

(e) Proceeds of assessments may be used to reimburse the city for the actual costs of the services and facilities.

Sec. 734. The district shall keep any city funds in a separate account and, upon demand of the city, demonstrate that expenditures made from the account were used only for the purposes enumerated in this chapter.

CHAPTER 7. MAXIMUM INTEREST AND DISCOUNT RATES

Sec. 735. Notwithstanding any other provision of law, a bond or evidence of indebtedness of the district may bear interest at a rate or rates as determined by the board of directors in its discretion, but not to exceed 12 percent per year, unless some higher rate is permitted by law.

Sec. 736. In addition to interest paid on a bond or evidence of indebtedness of the district, the board in its discretion may sell the bond or evidence of indebtedness at less than its par or face value not to exceed 6 percent of the par or face value, unless a higher rate is otherwise permitted by law.

PART 6. MISCELLANEOUS

Sec. 801. The Cortese-Knox Local Government Reorganization Act of 1985 (Division 3 (commencing with Section 56000) of Title 5 of the Government Code) applies to the formation of the district. The district shall be a "district," as that term is defined in the Cortese-Knox Local Government Reorganization Act of 1985.

Sec. 803. (a) Any judicial action or proceeding to attack, review, set aside, void, annul, or challenge the validity or legality of the formation of a zone or improvement district, any contract entered into by the district or improvement district, any bond or evidence of indebtedness of the district or improvement district, or any assessment, rate, or charge of the district or a zone or improvement district shall be commenced within 60 days of the effective date thereof.

(b) Any action or proceeding shall be brought pursuant to the provisions of Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure.

(c) The district may bring an action pursuant to those provisions to determine the validity of any of the matters referred to in this

section.

Sec. 804. Claims for money or damages against the district are governed by Part 3 (commencing with Section 900) of, and Part 4 (commencing with Section 940) of, Division 3.6 of Title 1 of the Government Code. Claims not governed by those parts, or by other statutes, ordinances, or regulations authorized by law and expressly applicable to the claims, shall be prepared and presented to the board.

Sec. 805. This act does not change the authority of the Mojave Water Agency or any other entity. The Mojave Water Agency shall continue to be the water management entity and state water contractor for the district.

SEC. 2. If any provision of this act or the application thereof to any person or circumstances is held invalid, that invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

SEC. 3. The Legislature finds and declares that this act, which is applicable only to the Odessa Water District, is necessary because of the unique and special water undersupply problems in the area included in the district. It is, therefore, hereby declared that a general law cannot be made applicable to the district and that the enactment of this special law is necessary for the conservation, development, control, and use of that water in cooperation with the Mojave Water Agency, consistent with the Mojave Water Agency's plans, policies, standards, and water management plan criteria, and in compliance with the Cortese-Knox Local Government Reorganization Act of 1985 (Division 3 (commencing with Section 56000) of Title 5 of the Government Code) for the public good and for the protection of life and property therein.

CHAPTER 534

An act to add Section 1798.24b to the Civil Code, to amend Sections 4514, 4520, and 5328 of, to add Sections 4514.3 and 5328.06 to, and to add Division 4.7 (commencing with Section 4900) to, the Welfare and Institutions Code, relating to protection and advocacy.

[Approved by Governor October 5, 1991. Filed with Secretary of State October 7, 1991]

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

SECTION 1. The Legislature finds that persons with developmental disabilities and persons with mental illness are vulnerable to abuse and serious injury and are subject to neglect, including lack of treatment, adequate nutrition, clothing, health care, and adequate discharge planning. The intent of this act is to

bring state law into compliance with current federal requirements in relation to the authority of the federally mandated protection and advocacy agency designated in this state by the Governor and to acknowledge the authority of the protection and advocacy agency to investigate incidents of abuse and neglect and to pursue legal, administrative, and other appropriate remedies on behalf of persons with developmental disabilities and persons with mental illness. It is not the intent of the Legislature in enacting this act to supplant or replace other protection and advocacy services performed by other entities nor to limit the authority of these entities from carrying out their responsibilities for the protection and advocacy of the rights of persons with mental illness and persons with developmental disabilities. It is not the intent of the Legislature to establish an agency or other entity by the enactment of this act. The Legislature recognizes that this act will need to be amended periodically to reflect subsequent changes in federal law, but also recognizes the immediate need to have state law reflect current federal requirements in relation to the authority of the federally mandated protection and advocacy agency designated in this state.

SEC. 2. Section 1798.24b is added to the Civil Code, to read:

1798.24b. (a) Notwithstanding Section 1798.24, except the last paragraph thereof, information may be disclosed to the protection and advocacy agency designated by the Governor in this state pursuant to federal law to protect and advocate the rights of persons with developmental disabilities and persons with mental illness, as described in Division 4.7 (commencing with Section 4900) of the Welfare and Institutions Code.

(b) Information that may be disclosed pursuant to this section includes all of the following information:

(1) Name.

(2) Address.

(3) Telephone number.

(4) Any other information necessary to identify that person whose consent is necessary for either of the following purposes:

(A) To enable the protection and advocacy agency to exercise its authority and investigate incidents of abuse or neglect of persons with developmental disabilities or persons with mental illness.

(B) To obtain access to records pursuant to Section 4903 of the Welfare and Institutions Code.

SEC. 3. Section 4514.3 is added to the Welfare and Institutions Code, to read:

4514.3. (a) Notwithstanding Section 4514, information and records may be disclosed to the protection and advocacy agency designated by the Governor in this state to fulfill the requirements and assurances of the federal Developmental Disabilities Assistance and Bill of Rights Act, contained in Chapter 75 (commencing with Section 6000) of Title 42 of the United States Code, for the protection and advocacy of the rights of persons with developmental disabilities, as defined in Section 6001 (5) of Title 42 of the United States Code.

(b) Access to information and records to which subdivision (a) applies shall be in accord with Division 4.7 (commencing with Section 4900).

SEC. 4. Section 4514 of the Welfare and Institutions Code is amended to read:

4514. All information and records obtained in the course of providing intake, assessment, and services under Division 4.1 (commencing with Section 4400), Division 4.5 (commencing with Section 4500), Division 6 (commencing with Section 6000), or Division 7 (commencing with Section 7100) to persons with developmental disabilities shall be confidential. Information and records obtained in the course of providing similar services to either voluntary or involuntary recipients prior to 1969 shall also be confidential. Information and records shall be disclosed only in any of the following cases:

(a) In communications between qualified professional persons, whether employed by a regional center or state developmental center, or not, in the provision of intake, assessment, and services or appropriate referrals. The consent of the person with a developmental disability, or his or her guardian or conservator, shall be obtained before information or records may be disclosed by regional center or state developmental center personnel to a professional not employed by the regional center or state developmental center, or a program not vendored by a regional center or state developmental center.

(b) When the person with a developmental disability, who has the capacity to give informed consent, designates individuals to whom information or records may be released, except that nothing in this article shall be construed to compel a physician, psychologist, social worker, marriage, family, and child counselor, nurse, attorney, or other professional to reveal information which has been given to him or her in confidence by a family member of the person unless a valid release has been executed by that family member.

(c) To the extent necessary for a claim, or for a claim or application to be made on behalf of a person with a developmental disability for aid, insurance, government benefit, or medical assistance to which he or she may be entitled.

(d) If the person with a developmental disability is a minor, ward, or conservatee, and his or her parent, guardian, conservator, or limited conservator with access to confidential records, designates, in writing, persons to whom records or information may be disclosed, except that nothing in this article shall be construed to compel a physician, psychologist, social worker, marriage, family, and child counselor, nurse, attorney, or other professional to reveal information which has been given to him or her in confidence by a family member of the person unless a valid release has been executed by that family member.

(e) For research, provided that the Director of Developmental Services designates by regulation rules for the conduct of research

and requires the research to be first reviewed by the appropriate institutional review board or boards. These rules shall include, but need not be limited to, the requirement that all researchers shall sign an oath of confidentiality as follows:

"_____
Date

As a condition of doing research concerning persons with developmental disabilities who have received services from _____ (fill in the facility, agency or person), I, _____, agree to obtain the prior informed consent of persons who have received services to the maximum degree possible as determined by the appropriate institutional review board or boards for protection of human subjects reviewing my research, or the person's parent, guardian, or conservator, and I further agree not to divulge any information obtained in the course of the research to unauthorized persons, and not to publish or otherwise make public any information regarding persons who have received services so those persons who received services are identifiable.

I recognize that the unauthorized release of confidential information may make me subject to a civil action under provisions of the Welfare and Institutions Code.

_____ "
Signed

(f) To the courts, as necessary to the administration of justice.

(g) To governmental law enforcement agencies as needed for the protection of federal and state elective constitutional officers and their families.

(h) To the Senate Rules Committee or the Assembly Rules Committee for the purposes of legislative investigation authorized by the committee.

(i) To the courts and designated parties as part of a regional center report or assessment in compliance with a statutory or regulatory requirement, including, but not limited to, Section 1827.5 of the Probate Code, Sections 1370.1 and 1001.22 of the Penal Code, Section 6502 of the Welfare and Institutions Code, and Section 56557 of Title 17 of the California Code of Regulations.

(j) To the attorney for the person with a developmental disability in any and all proceedings upon presentation of a release of information signed by the person, except that when the person lacks the capacity to give informed consent, the regional center or state developmental center director or designee, upon satisfying himself or herself of the identity of the attorney, and of the fact that the attorney represents the person, shall release all information and records relating to the person except that nothing in this article shall be construed to compel a physician, psychologist, social worker,

marriage, family, and child counselor, nurse, attorney, or other professional to reveal information which has been given to him or her in confidence by a family member of the person unless a valid release has been executed by that family member.

(k) Upon written consent by a person with a developmental disability previously or presently receiving services from a regional center or state developmental center, the director of the regional center or state developmental center, or his or her designee, may release any information, except information which has been given in confidence by members of the family of the person with developmental disabilities, requested by a probation officer charged with the evaluation of the person after his or her conviction of a crime if the regional center or state developmental center director or designee determines that the information is relevant to the evaluation. The consent shall only be operative until sentence is passed on the crime of which the person was convicted. The confidential information released pursuant to this subdivision shall be transmitted to the court separately from the probation report and shall not be placed in the probation report. The confidential information shall remain confidential except for purposes of sentencing. After sentencing, the confidential information shall be sealed.

(*l*) Between persons who are trained and qualified to serve on "multidisciplinary personnel" teams pursuant to subdivision (d) of Section 18951. The information and records sought to be disclosed shall be relevant to the prevention, identification, management, or treatment of an abused child and his or her parents pursuant to Chapter 11 (commencing with Section 18950) of Part 6 of Division 9.

(m) When a person with a developmental disability dies from any cause, natural or otherwise, while hospitalized in a state developmental center, the State Department of Developmental Services, the physician in charge of the client, or the professional in charge of the facility or his or her designee, shall release information and records to the coroner. The State Department of Developmental Services, the physician in charge of the client, or the professional in charge of the facility or his or her designee, shall not release any notes, summaries, transcripts, tapes, or records of conversations between the resident and health professional personnel of the hospital relating to the personal life of the resident which is not related to the diagnosis and treatment of the resident's physical condition. Any information released to the coroner pursuant to this section shall remain confidential and shall be sealed and shall not be made part of the public record.

(n) To authorized licensing personnel who are employed by, or who are authorized representatives of, the State Department of Health Services, and who are licensed or registered health professionals, and to authorized legal staff or special investigators who are peace officers who are employed by, or who are authorized

representatives of, the State Department of Social Services, as necessary to the performance of their duties to inspect, license, and investigate health facilities and community care facilities, and to ensure that the standards of care and services provided in such facilities are adequate and appropriate and to ascertain compliance with the rules and regulations to which the facility is subject. The confidential information shall remain confidential except for purposes of inspection, licensing, or investigation pursuant to Chapter 2 (commencing with Section 1250) and Chapter 3 (commencing with Section 1500) of Division 2 of the Health and Safety Code, or a criminal, civil, or administrative proceeding in relation thereto. The confidential information may be used by the State Department of Health Services or the State Department of Social Services in a criminal, civil, or administrative proceeding. The confidential information shall be available only to the judge or hearing officer and to the parties to the case. Names which are confidential shall be listed in attachments separate to the general pleadings. The confidential information shall be sealed after the conclusion of the criminal, civil, or administrative hearings, and shall not subsequently be released except in accordance with this subdivision. If the confidential information does not result in a criminal, civil, or administrative proceeding, it shall be sealed after the State Department of Health Services or the State Department of Social Services decides that no further action will be taken in the matter of suspected licensing violations. Except as otherwise provided in this subdivision, confidential information in the possession of the State Department of Health Services or the State Department of Social Services shall not contain the name of the person with a developmental disability.

(o) To any board which licenses and certifies professionals in the fields of mental health and developmental disabilities pursuant to state law, when the Director of Developmental Services has reasonable cause to believe that there has occurred a violation of any provision of law subject to the jurisdiction of a board and the records are relevant to the violation. The information shall be sealed after a decision is reached in the matter of the suspected violation, and shall not subsequently be released except in accordance with this subdivision. Confidential information in the possession of the board shall not contain the name of the person with a developmental disability.

(p) To governmental law enforcement agencies by the director of a regional center or state developmental center, or his or her designee, when (1) the person with a developmental disability has been reported lost or missing; or (2) there is probable cause to believe that a person with a developmental disability has committed, or has been the victim of, murder, manslaughter, mayhem, aggravated mayhem, kidnapping, robbery, assault with the intent to commit a felony, arson, extortion, rape, forcible sodomy, forcible oral copulation, assault or battery, or unlawful possession of a weapon, as

provided in Section 12020 of the Penal Code.

This subdivision shall be limited solely to information directly relating to the factual circumstances of the commission of the enumerated offenses and shall not include any information relating to the mental state of the patient or the circumstances of his or her treatment unless relevant to the crime involved.

This subdivision shall not be construed as an exception to, or in any other way affecting, the provisions of Article 7 (commencing with Section 1010) of Chapter 4 of Division 8 of the Evidence Code, or Chapter 11 (commencing with Section 15600) and Chapter 13 (commencing with Section 15750) of Part 3 of Division 9.

(q) To the Youth Authority and Adult Correctional Agency or any component thereof, as necessary to the administration of justice.

(r) To an agency mandated to investigate a report of abuse filed pursuant to either Section 11164 of the Penal Code or Section 15630 of the Welfare and Institutions Code for the purposes of either a mandated or voluntary report or when those agencies request information in the course of conducting their investigation.

(s) When a person with developmental disabilities, or the parent, guardian, or conservator of a person with developmental disabilities who lacks capacity to consent, fails to grant or deny a request by a regional center or state developmental center to release information or records relating to the person with developmental disabilities within a reasonable period of time, the director of the regional or developmental center, or his or her designee, may release information or records on behalf of that person provided both of the following conditions are met:

(1) Release of the information or records is deemed necessary to protect the person's health, safety, or welfare.

(2) The person, or the person's parent, guardian, or conservator, has been advised annually in writing of the policy of the regional center or state developmental center for release of confidential client information or records when the person with developmental disabilities, or the person's parent, guardian, or conservator, fails to respond to a request for release of the information or records within a reasonable period of time. A statement of policy contained in the client's individual program plan shall be deemed to comply with the notice requirement of this paragraph.

SEC. 5. Section 4520 of the Welfare and Institutions Code is amended to read:

4520. (a) The Legislature finds that services for persons with developmental disabilities constitute a major expenditure of public funds, that these programs are provided by hundreds of public and private state and local agencies, that the legal, civil, and service rights of persons with developmental disabilities are frequently denied, and that there is no effective method for planning and coordinating the state's resources to assure these rights. Therefore, a State Council on Developmental Disabilities with authority independent of any single state service agency is needed and is hereby created.

(b) Chapter 2 (commencing with Section 4520), Chapter 3 (commencing with Section 4560), and Chapter 4 (commencing with Section 4570), and Division 4.7 (commencing with Section 4900), are intended by the Legislature to secure full compliance with the requirements of the Developmental Disabilities Assistance and Bill of Rights Act of 1975 (Public Law 94-103), as amended and extended, which provides federal funds to assist the state in planning, coordinating, monitoring, and evaluating services for persons with developmental disabilities and in establishing a system to protect and advocate the legal and civil rights of persons with developmental disabilities.

SEC. 6. Section 5328 of the Welfare and Institutions Code is amended to read:

5328. All information and records obtained in the course of providing services under Division 4 (commencing with Section 4000), Division 4.1 (commencing with Section 4400), Division 4.5 (commencing with Section 4500), Division 5 (commencing with Section 5000), Division 6 (commencing with Section 6000), or Division 7 (commencing with Section 7100), to either voluntary or involuntary recipients of services shall be confidential. Information and records obtained in the course of providing similar services to either voluntary or involuntary recipients prior to 1969 shall also be confidential. Information and records shall be disclosed only in any of the following cases:

(a) In communications between qualified professional persons in the provision of services or appropriate referrals, or in the course of conservatorship proceedings. The consent of the patient, or his or her guardian or conservator shall be obtained before information or records may be disclosed by a professional person employed by a facility to a professional person not employed by the facility who does not have the medical or psychological responsibility for the patient's care.

(b) When the patient, with the approval of the physician, licensed psychologist, or social worker with a master's degree in social work, who is in charge of the patient, designates persons to whom information or records may be released, except that nothing in this article shall be construed to compel a physician, psychologist, social worker, nurse, attorney, or other professional person to reveal information which has been given to him or her in confidence by members of a patient's family.

(c) To the extent necessary for a recipient to make a claim, or for a claim to be made on behalf of a recipient for aid, insurance, or medical assistance to which he or she may be entitled.

(d) If the recipient of services is a minor, ward, or conservatee, and his or her parent, guardian, guardian ad litem, or conservator designates, in writing, persons to whom records or information may be disclosed, except that nothing in this article shall be construed to compel a physician, psychologist, social worker, nurse, attorney, or other professional person to reveal information which has been given

to him or her in confidence by members of a patient's family.

(e) For research, provided that the Director of Mental Health or the Director of Developmental Services designates by regulation, rules for the conduct of research and requires such research to be first reviewed by the appropriate institutional review board or boards. The rules shall include, but need not be limited to, the requirement that all researchers shall sign an oath of confidentiality as follows:

_____

Date

As a condition of doing research concerning persons who have received services from _____ (fill in the facility, agency or person), I, _____, agree to obtain the prior informed consent of such persons who have received services to the maximum degree possible as determined by the appropriate institutional review board or boards for protection of human subjects reviewing my research, and I further agree not to divulge any information obtained in the course of such research to unauthorized persons, and not to publish or otherwise make public any information regarding persons who have received services such that the person who received services is identifiable.

I recognize that the unauthorized release of confidential information may make me subject to a civil action under provisions of the Welfare and Institutions Code.

(f) To the courts, as necessary to the administration of justice.

(g) To governmental law enforcement agencies as needed for the protection of federal and state elective constitutional officers and their families.

(h) To the Senate Rules Committee or the Assembly Rules Committee for the purposes of legislative investigation authorized by such committee.

(i) If the recipient of services who applies for life or disability insurance designates in writing the insurer to which records or information may be disclosed.

(j) To the attorney for the patient in any and all proceedings upon presentation of a release of information signed by the patient, except that when the patient is unable to sign such release, the staff of the facility, upon satisfying itself of the identity of the attorney, and of the fact that the attorney does represent the interests of the patient, may release all information and records relating to the patient except that nothing in this article shall be construed to compel a physician, psychologist, social worker, nurse, attorney, or other professional person to reveal information which has been given to him or her in confidence by members of a patient's family.

(k) Upon written agreement by a person previously confined in or otherwise treated by a facility, the professional person in charge

of the facility or his or her designee may release any information, except information which has been given in confidence by members of the person's family, requested by a probation officer charged with the evaluation of the person after his or her conviction of a crime if the professional person in charge of the facility determines that such information is relevant to the evaluation. The agreement shall only be operative until sentence is passed on the crime of which the person was convicted. The confidential information released pursuant to this subdivision shall be transmitted to the court separately from the probation report and shall not be placed in the probation report. The confidential information shall remain confidential except for purposes of sentencing. After sentencing, the confidential information shall be sealed.

(*l*) Between persons who are trained and qualified to serve on "multidisciplinary personnel" teams pursuant to subdivision (d) of Section 18951. The information and records sought to be disclosed shall be relevant to the prevention, identification, management, or treatment of an abused child and his or her parents pursuant to Chapter 11 (commencing with Section 18950) of Part 6 of Division 9.

(m) To county patients' rights advocates who have been given knowing voluntary authorization by a client or a guardian ad litem. The client or guardian ad litem, whoever entered into the agreement, may revoke such authorization at any time, either in writing or by oral declaration to an approved advocate.

(n) To a committee established in compliance with Sections 4070 and 5624.

(o) In providing information as described in Section 7325.5. Nothing in this subdivision shall permit the release of any information other than that described in Section 7325.5.

(p) To the county mental health director or the director's designee, or to a law enforcement officer, or to the person designated by a law enforcement agency, pursuant to Sections 5152.1 and 5250.1.

(q) If the patient gives his or her consent, information specifically pertaining to the existence of genetically handicapping conditions, as defined in Section 341.5 of the Health and Safety Code, may be released to qualified professional persons for purposes of genetic counseling for blood relatives upon request of the blood relative. For purposes of this subdivision, "qualified professional persons" means those persons with the qualifications necessary to carry out the genetic counseling duties under this subdivision as determined by the genetic disease unit established in the State Department of Health Services under Section 309 of the Health and Safety Code. If the patient does not respond or cannot respond to a request for permission to release information pursuant to this subdivision after reasonable attempts have been made over a two-week period to get a response, the information may be released upon request of the blood relative.

(r) When the patient, in the opinion of his or her psychotherapist,

presents a serious danger of violence to a reasonably foreseeable victim or victims, then any of the information or records specified in this section may be released to that person or persons and to law enforcement agencies as the psychotherapist determines is needed for the protection of that person or persons. For purposes of this subdivision, "psychotherapist" means anyone so defined within Section 1010 of the Evidence Code.

(s) To persons serving on an interagency case management council established in compliance with Section 5606.6 to the extent necessary to perform its duties. This council shall attempt to obtain the consent of the client. If this consent is not given by the client, the council shall justify in the client's chart why these records are necessary for the work of the council.

The amendment of subdivision (d) enacted at the 1970 Regular Session of the Legislature does not constitute a change in, but is declaratory of, the preexisting law.

SEC. 7. Division 4.7 (commencing with Section 4900) is added to the Welfare and Institutions Code, to read:

DIVISION 4.7. PROTECTION AND ADVOCACY AGENCY

CHAPTER 1. DEFINITIONS

4900. (a) The definitions contained in this section shall govern the construction of this division, unless the context requires otherwise.

(b) "Abuse" means any act or failure to act that would constitute abuse as that term is defined in subdivision (g) of Section 15610 of the Welfare and Institutions Code or Section 11165.6 of the Penal Code.

(c) "Developmental disability" means the same as defined in Section 6001(5) of Title 42 of the United States Code.

(d) "Facility" or "program" means any facility or program providing care or treatment to persons with developmental disabilities or persons with mental illness. The term includes any facility licensed under Division 2 (commencing with Section 1200) of the Health and Safety Code and any facility that is unlicensed but is not exempt from licensure. The term also includes public or private schools and other institutions or programs providing education, training, habilitation, therapeutic, or residential services to persons with developmental disabilities or persons with mental illness.

(e) "Neglect" means any act or failure to act that would constitute neglect as that term is defined in subdivision (d) of Section 15610 of the Welfare and Institutions Code or Section 11165.2 of the Penal Code.

(f) "Persons with mental illness" means the same as mentally ill individuals, as defined in Section 10802(3) of Title 42 of the United States Code.

(g) "Probable cause" to believe that an individual has been subject to abuse or neglect exists when the protection and advocacy agency determines that it is objectively reasonable for a person to entertain such a belief, based upon facts that could cause a reasonable person in a like position, drawing when appropriate upon his or her training and experience, to suspect abuse or neglect.

(h) "Protection and advocacy agency" means the private nonprofit corporation designated by the Governor in this state pursuant to federal law for the protection and advocacy of the rights of the following persons:

(1) Persons with developmental disabilities, as authorized under the federal Developmental Disabilities Assistance and Bill of Rights Act, as amended, contained in Chapter 75 (commencing with Section 6000) of Title 42 of the United States Code.

(2) Persons with mental illness, including mentally ill individuals, as authorized under the federal Protection and Advocacy for Mentally Ill Individuals Act of 1986, as amended, contained in Chapter 114 (commencing with Section 10801) of Title 42 of the United States Code.

4901. (a) The protection and advocacy agency, for purposes of this division, shall be a private nonprofit corporation and shall meet all of the requirements of federal law applicable to protection and advocacy systems, including, but not limited to, the requirement that it establish a grievance procedure for clients or prospective clients of the system to ensure that persons with developmental disabilities and persons with mental illness have full access to services of the system.

(b) State officers and employees, in taking any action relating to the protection and advocacy agency, shall meet the requirements of federal law applicable to protection and advocacy systems.

4902. (a) The protection and advocacy agency, in protecting and advocating the rights of persons who have developmental disabilities and persons with mental illness, pursuant to the federal mandate, may do all of the following:

(1) Investigate any incident of abuse and neglect of persons with developmental disabilities and persons with mental illness if the incident is reported to the protection and advocacy agency or if the protection and advocacy agency determines there is probable cause to believe the incident occurred. This authority shall include reasonable access to the facility and authority to examine all relevant records and interview any facility service recipient, employee, or other person who might have knowledge of the alleged abuse or neglect.

(2) Pursue administrative, legal, and other appropriate remedies or approaches to ensure the protection of the rights of persons with developmental disabilities.

(3) Pursue administrative, legal, and other appropriate remedies or approaches to ensure the protection of the rights of individuals with mental illness who are in facilities providing care and

treatment, or who have been discharged from such a facility, with respect to matters that occur within 90 days after discharge.

(4) Provide information and training on, and referral to, programs and services addressing the needs of persons with developmental disabilities and persons with mental illness, including information and training about individual rights and the services available from the protection and advocacy agency.

(b) The protection and advocacy agency shall, in addition, have reasonable access to facilities or programs in the state which provide care and treatment to persons who have developmental disabilities and persons with mental illness, and access to those persons. The protection and advocacy agency shall have reasonable access to facilities, programs, and services, and recipients of services therein, at all times as are necessary to investigate incidents of abuse and neglect in accord with paragraph (1) of subdivision (a), and shall have access during normal working hours and visiting hours for other advocacy services in accord with paragraphs (2), (3), and (4) of subdivision (a). In the case of information and training services, access shall be at times mutually agreeable to the protection and advocacy agency and facility management.

4903. (a) The protection and advocacy agency shall have access to the records of any of the following persons with developmental disabilities and persons with mental illness:

(1) Any person who is a client of the agency if that person, or the legal guardian, conservator, or other legal representative of that person, has authorized the protection and advocacy agency to have access to the records and information.

(2) Any person, including any individual who is deceased or cannot be located, to whom all of the following conditions apply:

(A) The individual, due to his or her mental or physical condition, is unable to authorize the protection and advocacy agency to have access to his or her records.

(B) The individual does not have a legal guardian, conservator, or other legal representative, or the individual's representative is a public entity, including the state.

(C) The protection and advocacy agency has received a complaint that the individual has been subject to abuse or neglect, or has determined that probable cause exists to believe that the individual has been subject to abuse or neglect.

(3) Any person who has a legal guardian, conservator, or other legal representative with respect to whom a complaint has been received by the protection and advocacy agency, or with respect to whom the protection and advocacy agency has determined that probable cause exists to believe the health or safety of the individual is in serious and immediate jeopardy, whenever all of the following conditions exist:

(A) The representative has been contacted by the protection and advocacy agency upon receipt of the representative's name and address.

(B) The protection and advocacy agency has offered assistance to the representatives to resolve the situation.

(C) The representative has failed or refused to act on behalf of the person.

(b) Information and records which shall be available to the protection and advocacy agency under this section shall include, but not be limited to, all of the following information and records obtained in the course of providing intake, assessment, and services:

(1) Information and records obtained in the course of providing intake, assessment, and services, including reports prepared by any member of the staff of a facility or program rendering care and treatment.

(2) Reports prepared by an agency charged with investigating reports of incidents of abuse, neglect, or injury occurring at the facility that describe any or all of the following:

(A) Abuse, neglect, or injury occurring at the facility.

(B) The steps taken to investigate the incidents.

(3) Discharge planning records.

(c) The authority of the protection and advocacy agency to have access to records does not supersede any prohibition on discovery specified in Sections 1157 and 1157.6 of the Evidence Code.

(d) Confidential information kept or obtained by the protection and advocacy agency shall remain confidential and shall not be subject to disclosure. This subdivision shall not, however, prevent the protection and advocacy agency from doing any of the following:

(1) Sharing the information with the individual client who is the subject of the record or report or other document, or with his or her legally authorized representative.

(2) Issuing a public report of the results of an investigation which maintains the confidentiality of individual service recipients.

(3) Reporting the results of an investigation to responsible investigative or enforcement agencies should an investigation reveal information concerning the facility, its staff, or employees warranting possible sanctions or corrective action. This information may be reported to agencies that are responsible for facility licensing or accreditation, employee discipline, employee licensing or certification suspension or revocation, or criminal prosecution.

(4) Pursuing alternative remedies, including the initiation of legal action.

4904. (a) The protection and advocacy agency, its employees, and designated agents, shall not be liable for an injury resulting from an employee's or agent's act or omission where the act or omission was the result of the exercise, in good faith, of the discretion vested in him or her.

(b) The protection and advocacy agency, its employees, and designated agents, shall not be liable for damages awarded under Section 3294 of the Civil Code or other damages imposed primarily for the sake of example and by way of punishing the defendant.

(c) The protection and advocacy agency, its employees, and

designated agents, when participating in filing a complaint or providing information pursuant to this division or participating in a judicial proceeding resulting therefrom shall be presumed to be acting in good faith and unless the presumption is rebutted, shall be immune from any liability, civil or criminal, and shall be immune from any penalty, sanction, or restriction that might be incurred or imposed.

4905. (a) No employee or agent of a facility or program shall subject a person with developmental disabilities or a person with mental illness to reprisal or harassment or directly or indirectly take or threaten to take any actions which prevent the person, his or her legally authorized representative, or family member from reporting or otherwise bringing to the attention of the protection and advocacy agency any facts or information relative to suspected abuse, neglect, or other violations of his or her rights.

(b) Any attempt to involuntarily remove from a facility or program, or to deny privileges or rights without good cause to a person with developmental disabilities or person with mental illness by whom or for whom a complaint has been made to the protection and advocacy agency within 60 days after the date the complaint is made or within 60 days after the conclusion of any proceeding resulting from the complaint shall raise a presumption that the action was taken in retaliation for the filing of the complaint.

SEC. 5. Section 5328.06 is added to the Welfare and Institutions Code, to read:

5328.06. (a) Notwithstanding Section 5328, information and records may be disclosed to the protection and advocacy agency established in this state to fulfill the requirements and assurances of the federal Protection and Advocacy for the Mentally Ill Individuals Act of 1986, as amended, contained in Chapter 114 (commencing with Section 10801) of Title 42 of the United States Code, for the protection and advocacy of the rights of individuals identified as mentally ill, as defined in Section 10802(3) of Title 42 of the United States Code.

(b) Access to information and records to which subdivision (a) applies shall be in accord with Division 4.7 (commencing with Section 4900).

CHAPTER 535

An act to amend Section 30263 of, and to add Section 30600.7 to, the Public Resources Code, relating to coastal resources.

[Approved by Governor October 5, 1991. Filed with Secretary of State October 7, 1991]

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

SECTION 1. Section 30263 of the Public Resources Code is amended to read:

30263. (a) New or expanded refineries or petrochemical facilities not otherwise consistent with the provisions of this division shall be permitted if (1) alternative locations are not feasible or are more environmentally damaging; (2) adverse environmental effects are mitigated to the maximum extent feasible; (3) it is found that not permitting such development would adversely affect the public welfare; (4) the facility is not located in a highly scenic or seismically hazardous area, on any of the Channel Islands, or within or contiguous to environmentally sensitive areas; and (5) the facility is sited so as to provide a sufficient buffer area to minimize adverse impacts on surrounding property.

(b) New or expanded refineries or petrochemical facilities shall minimize the need for once-through cooling by using air cooling to the maximum extent feasible and by using treated waste waters from inplant processes where feasible.

SEC. 2. Section 30600.7 is added to the Public Resources Code, to read:

30600.7. Where, prior to delegation of coastal permit authority pursuant to Section 30519, a modification of a refinery facility or petrochemical facility is necessary to comply with a goal, policy, or requirement of an air pollution control district, the State Air Resources Board, or the Environmental Protection Agency to provide for reformulated or alternative fuels, that modification shall require a coastal development permit from the commission only, notwithstanding the option afforded local governments under subdivision (b) of Section 30600.

CHAPTER 536

An act to amend Section 65995.1 of the Government Code, relating to migrant worker housing, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 5, 1991. Filed with Secretary of State October 7, 1991]

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

SECTION 1. Section 65995.1 of the Government Code is amended to read:

65995.1. (a) Notwithstanding any other provision of law, as to any development project for the construction of senior citizen housing, as described in Section 51.3 of the Civil Code, a residential care facility for the elderly as described in subdivision (k) of Section 1569.2 of the Health and Safety Code, or a multilevel facility for the elderly as described in paragraph (9) of subdivision (d) of Section 15432, any fee, charge, dedication, or other form of requirement that is levied under Section 53080 may be applied only to new construction, and is subject to the limits and conditions applicable under subdivision (b) of Section 65995 in the case of commercial or industrial development.

(b) Notwithstanding any other provision of law, as to any development project for the construction of agricultural migrant worker housing financed in whole or part pursuant to Chapter 8.5 (commencing with Section 50710) of Part 2 of Division 31 of the Health and Safety Code, no fees, charges, dedications, or other forms of requirements that are levied under Section 53080 shall be applied to new construction, reconstruction, or rehabilitation of this housing. The exemption provided by this subdivision shall be applicable only to that agricultural migrant worker housing which is owned by the state and which is subject to a contract ensuring compliance with the requirements of Chapter 8.5 (commencing with Section 50710) of Part 2 of Division 31 of the Health and Safety Code.

(c) Any development project against which school facilities fees or other requirements have been levied or waived in accordance with the limit or exemption set forth in subdivision (a) or (b) may be converted to any use other than those uses described in the statutes cited in that subdivision only with the approval of the city or county that issued the building permit for the project. That approval shall not be granted absent certification by the appropriate school district that payment has been made on the part of the development project at the rate of the school facilities fee, charge, dedication, or other form of requirement applied by the district under Section 53080 to residential development as of the date of conversion, less the amount of any school facilities fees or other requirements paid on the part of the project in accordance with the

limits set forth in subdivision (a) or (b).

SEC. 2. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

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

In order to address serious problems regarding the provision and funding of migrant agricultural worker housing, it is necessary that this act take effect immediate effect.

CHAPTER 537

An act to amend Sections 1063.1 and 1063.2 of, and to add Section 1063.15 to, the Insurance Code, relating to insurance.

[Approved by Governor October 5, 1991 Filed with Secretary of State October 7, 1991.]

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

SECTION 1. Section 1063.1 of the Insurance Code is amended to read:

1063.1. As used in this article:

(a) "Member insurer" means an insurer required to be a member of the association in accordance with the provisions of subdivision (a) of Section 1063, except and to the extent that the insurer is participating in an insolvency program adopted by the United States government.

(b) "Insolvent insurer" means a member insurer for which a domiciliary or ancillary liquidator has been appointed in this state after the effective date of this article.

(c) (1) "Covered claims" means the obligations of an insolvent insurer, including the obligation for unearned premiums, (i) imposed by law and within the coverage of an insurance policy of the insolvent insurer; (ii) which were unpaid by the insolvent insurer; (iii) which are presented as a claim to the liquidator in this state or to the association on or before the last date fixed for the filing of

claims in the domiciliary liquidating proceedings; (iv) which were incurred prior to the date coverage under the policy terminated and prior to, on, or within 30 days after the date the liquidator was appointed; (v) for which the assets of the insolvent insurer are insufficient to discharge in full; (vi) in the case of a policy of workers' compensation insurance, to provide workers' compensation benefits under the workers' compensation law of this state; and (vii) in the case of other classes of insurance if the claimant or insured is a resident of this state at the time of the insured occurrence, or the property from which the claim arises is permanently located in this state.

(2) "Covered claims" shall not include any obligations arising from the following:

(i) Life, annuity, health, or disability insurance.

(ii) Mortgage guaranty, financial guaranty, or other forms of insurance offering protection against investment risks.

(iii) Fidelity or surety insurance including fidelity or surety bonds, or any other bonding obligations.

(iv) Credit insurance.

(v) Title insurance.

(vi) Ocean marine insurance or ocean marine coverage under any insurance policy including claims arising from the following: the Jones Act (46 U.S.C.A. Sec. 688), the Longshore and Harbor Workers' Compensation Act (33 U.S.C.A. Sec. 901 et seq.), or any other similar federal statutory enactment, or any endorsement or policy affording protection and indemnity coverage.

(vii) Any claims servicing agreement or insurance policy providing retroactive insurance of a known loss or losses, except a special excess workers' compensation policy issued pursuant to paragraph (2) of subdivision (a) of Section 3702.8 of the Labor Code which cover all or any part of workers' compensation liabilities of an employer that was previously issued a certificate of consent to self-insure pursuant to subdivision (b) of Section 3700 of the Labor Code.

(3) "Covered claims" shall not include any obligations of the insolvent insurer arising out of any reinsurance contracts, nor any obligations incurred after the expiration date of the insurance policy or after the insurance policy has been replaced by the insured or canceled at the insured's request or after the insurance policy has been canceled by the association as provided in this chapter, or after the insurance policy has been canceled by the liquidator, nor any obligations to any state or to the federal government.

(4) "Covered claims" shall not include any obligations to insurers, insurance pools, or underwriting associations, nor their claims for contribution, indemnity, or subrogation, equitable or otherwise, except as otherwise provided in this chapter.

No insurer, insurance pool, or underwriting association may maintain, in its own name or in the name of its insured, any claim or legal action against the insured of the insolvent insurer for

contribution, indemnity or by way of subrogation, except insofar as, and to the extent only, that the claim exceeds the policy limits of the insolvent insurer's policy. In those claims or legal actions, the insured of the insolvent insurer shall be entitled to a credit or setoff in the amount of the policy limits of the insolvent insurer's policy, or in the amount of such limits remaining, where those limits have been diminished by the payment of other claims.

(5) "Covered claims," except in cases involving a claim for workers' compensation benefits or for unearned premiums, shall not include any claim in an amount of one hundred dollars ($100) or less, nor the first one hundred dollars ($100) of any claim in excess of one hundred dollars ($100), nor that portion of any claim which is in excess of any applicable limits provided in the insurance policy issued by the insolvent insurer.

(6) "Covered claims" shall not include that portion of any claim, other than a claim for workers' compensation benefits, which is in excess of five hundred thousand dollars ($500,000).

(7) "Covered claims" shall not include any amount sought as a return of a premium under any policy providing retroactive insurance of a known loss or losses.

(8) "Covered claims" shall not include any amount awarded as punitive or exemplary damages.

(9) "Covered claims" shall not include (i) any claim to the extent it is covered by any other insurance of a class covered by the provisions of this article available to the claimant or insured nor (ii) any claim by any person other than the original claimant under the insurance policy in his or her own name, his or her executor, administrator, guardian or other personal representative or trustee in bankruptcy and shall not include any claim asserted by an assignee or one claiming by right of subrogation, except as otherwise provided in this chapter.

(10) "Covered claims" shall not include any obligations arising out of the issuance of an insurance policy written by the separate division of the State Compensation Insurance Fund pursuant to the provisions of Sections 11802 and 11803.

(11) "Covered claims" shall not include any obligations of the insolvent insurer arising from any policy or contract of insurance issued or renewed prior to the insolvent insurer's admission to transact insurance in the State of California.

(12) "Covered claims" shall not include surplus deposits of subscribers as defined in Section 1374.1.

(d) "Admitted to transact insurance in this state" means an insurer possessing a valid certificate of authority issued by the California Department of Insurance.

(e) "Affiliate" means a person who directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with an insolvent insurer on December 31 of the year next preceding the date the insurer becomes an insolvent insurer.

(f) "Control" means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract other than a commercial contract for goods or nonmanagement services, or otherwise, unless the power is the result of an official position with or corporate office held by the person. Control shall be presumed to exist if any person, directly or indirectly, owns, controls, holds with the power to vote, or holds proxies representing, 10 percent or more of the voting securities of any other person. This presumption may be rebutted by showing that control does not in fact exist.

(g) "Claimant" means any insured making a first party claim or any person instituting a liability claim; provided that no person who is an affiliate of the insolvent insurer may be a claimant.

SEC. 2. Section 1063.15 is added to the Insurance Code, to read:

1063.15. In any workers' compensation matter the association shall have the same period of time within which to act or to exercise a right as is accorded to the insurer by the Labor Code, and those time periods shall be tolled against the association until 45 days after the appointment of a domiciliary or receiver.

SEC. 3. Section 1063.2 of the Insurance Code is amended to read:

1063.2. (a) The association shall pay and discharge covered claims and in connection therewith pay for or furnish loss adjustment services and defenses of claimants when required by policy provisions. It may do so either directly by itself or through a servicing facility or through a contract for reinsurance and assumption of liabilities by one or more member insurers or through a contract with the liquidator, upon terms satisfactory to the association and to the liquidator, under which payments on covered claims would be made by the liquidator using funds provided by the association.

(b) The association shall be a party in interest in all proceedings involving a covered claim, and shall have the same rights as the insolvent insurer would have had if not in liquidation, including, but not limited to, the right to: (1) appear, defend, and appeal a claim in a court of competent jurisdiction; (2) receive notice of, investigate, adjust, compromise, settle, and pay a covered claim; and (3) investigate, handle, and deny a noncovered claim. The association shall have no cause of action against the insureds of the insolvent insurer for any sums it has paid out, except as provided by this article.

(c) (1) If damages against uninsured motorists are recoverable by the claimant from his or her own insurer, the applicable limits of the uninsured motorists coverage shall be a credit against a covered claim payable under this article. Any person having a claim which may be recovered under more than one insurance guaranty association or its equivalent shall seek recovery first from the association of the place of residence of the insured, except that if it is a first-party claim for damage to property with a permanent location, he or she shall seek recovery first from the association of the

location of the property, and if it is a workers' compensation claim, he or she shall seek recovery first from the association of the residence of the claimant. Any recovery under this article shall be reduced by the amount of recovery from any other insurance guaranty association or its equivalent. A member insurer may recover in subrogation from the association only one-half of any amount paid by such insurer under uninsured motorist coverage for bodily injury or wrongful death (and nothing for a payment for anything else), in those cases where the injured person insured by such an insurer has proceeded under his or her uninsured motorist coverage on the ground that the tortfeasor is uninsured as a result of the insolvency of his or her liability insurer (an insolvent insurer as defined in this article), provided that such member insurer shall waive all rights of subrogation against such tortfeasor. Any amount paid a claimant in excess of the amount authorized by this section may be recovered by action brought by the association.

(2) Any claimant having collision coverage on a loss which is covered by the insolvent company's liability policy shall first proceed against his or her collision carrier. Neither that claimant nor the collision carrier, if it is a member of the association, shall have the right to sue or continue a suit against the insured of the insolvent insurance company for such collision damage.

(d) The association shall have the right to recover from any person who is an affiliate of the insolvent insurer and whose liability obligations to other persons are satisfied in whole or in part by payments made under this article the amount of any covered claim and allocated claims expense paid on behalf of that person pursuant to this article.

(e) Any person having a claim or legal right of recovery under any governmental insurance or guaranty program which is also a covered claim, shall be required to first exhaust his or her right under the program. Any amount payable on a covered claim shall be reduced by the amount of any recovery under the program.

(f) The association shall continue coverage for covered claims under all insurance policies of the insolvent insurer that were in force on the date the liquidator was appointed until the insurance policy has expired in accordance with its terms, or has been replaced by the insured, or canceled at the insured's request, or has been canceled by the association as provided in this article, or has been canceled by the liquidator.

(g) The association shall have authority to cancel insurance policies of the insolvent insurer by mailing or delivering to the insured at the last known address within this state a written notice of cancellation at least 10 days prior to the effective date of such cancellation, notwithstanding any statute or policy provision to the contrary.

(h) "Covered claims" shall not include any judgments against or obligations or liabilities of the insolvent insurer or the commissioner, as liquidator, or otherwise resulting from alleged or proven torts, nor

shall any default judgment or stipulated judgment against the insolvent insurer, or against the insured of the insolvent insurer, be binding against the association.

(i) "Covered claims" shall not include any loss adjustment expenses, including adjustment fees and expenses, attorney fees and expenses, court costs, interest, and bond premiums, incurred prior to the appointment of a liquidator. The deductible provided for in paragraph (5) of subdivision (c) of Section 1063.1 shall apply to each person for each accident for which he or she makes a claim.

CHAPTER 538

An act to amend Section 25244.19 of the Health and Safety Code, relating to hazardous waste, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 5, 1991 Filed with Secretary of State October 7, 1991]

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

SECTION 1. Section 25244.19 of the Health and Safety Code is amended to read:

25244.19. (a) On or before September 1, 1991, and every four years thereafter, each generator shall conduct a source reduction evaluation review and plan and a source reduction evaluation review and plan summary pursuant to subdivisions (b) and (c).

(b) Except as provided in subdivision (d), the source reduction evaluation review and plan required by subdivision (a) shall be conducted and completed for each site pursuant to the format adopted pursuant to subdivision (a) of Section 25244.16 and shall include, at a minimum, all of the following:

(1) The name and location of the site.

(2) The SIC Code of the site.

(3) Identification of all routinely generated hazardous waste streams which result from ongoing processes or operations that have a yearly volume exceeding 5 percent of the total yearly volume of hazardous waste generated at the site, or, for extremely hazardous waste, 5 percent of the total yearly volume generated at the site. For purposes of this paragraph, a hazardous waste exceeds 5 percent of the total yearly volume, and is subject to this article, if it is routinely generated on an ongoing basis and meets either of the following criteria:

(A) It is a hazardous waste stream processed in a wastewater treatment unit which discharges to a publicly owned treatment works or under a national pollutant discharge elimination system (NPDES) permit, as specified in the Federal Water Pollution Control Act, as amended (33 U.S.C. Sec. 1251 and following), and its

weight before treatment exceeds 5 percent of the weight of the total yearly volume at the site.

(B) It is a hazardous waste stream which is not processed in a wastewater treatment unit and its weight exceeds 5 percent of the weight of the total yearly volume at the site, less the weight of any hazardous waste stream identified in subparagraph (A).

(4) For each hazardous waste stream identified in paragraph (3), the review and plan shall include all of the following information:

(A) An estimate of the quantity of hazardous waste generated.

(B) An evaluation of source reduction approaches available to the generator which are potentially viable. The evaluation shall consider at least all of the following source reduction approaches:

(i) Input change.

(ii) Operational improvement.

(iii) Production process change.

(iv) Product reformulation.

(5) A specification of, and a rationale for, the technically feasible and economically practicable source reduction measures which will be taken by the generator with respect to each hazardous waste stream identified in paragraph (3). The review and plan shall fully document any statement explaining the generator's rationale for rejecting any available source reduction approach identified in paragraph (4).

(6) An evaluation, and, to the extent practicable, a quantification, of the effects of the chosen source reduction method on emissions and discharges to air, water, or land.

(7) A timetable for making reasonable and measurable progress towards implementation of the selected source reduction measures specified in paragraph (5).

(8) Certification pursuant to subdivision (e).

(c) The source reduction evaluation review and plan summary required by subdivision (a) shall be completed in accordance with the format adopted pursuant to subdivision (a) of Section 25244.19 and shall include the information specified in paragraphs (1), (2), (3), and (6) of subdivision (b) and a summary of the information required pursuant to paragraphs (4) and (5) of subdivision (b).

(d) If a generator owns or operates multiple sites with similar processes, operations, and waste streams, the generator may prepare a single multisite review and plan and plan summary addressing all of these sites.

(e) Every review and plan and plan summary conducted pursuant to this section shall be submitted by the generator for review and certification by an engineer who is registered as a professional engineer pursuant to Section 6762 of the Business and Professions Code and who has demonstrated expertise in hazardous waste management, by an individual who is responsible for the processes and operations of the site, or by an environmental assessor who is registered pursuant to Section 25570.3 and who has demonstrated expertise in hazardous waste management. The

engineer, individual, or environmental assessor shall certify the review and plan and plan summary only if the review and plan and plan summary meet all of the following requirements:

(1) The review and plan addresses each hazardous waste stream identified pursuant to paragraph (3) of subdivision (b).

(2) The review and plan addresses the source reduction approaches specified in subparagraph (B) of paragraph (4) of subdivision (b).

(3) The review and plan clearly sets forth the measures to be taken with respect to each hazardous waste stream for which source reduction has been found to be technically feasible and economically practicable, with timetables for making reasonable and measurable progress, and properly documents the rationale for rejecting available source reduction measures.

(4) The plan summary meets the requirements of subdivision (c).

(5) The review and plan and plan summary does not merely shift hazardous waste from one environmental medium to another environmental medium by increasing emissions or discharges to air, water, or land.

(f) At the time a review and plan or a plan summary is submitted to the department, the generator shall certify that the generator has implemented, is implementing, or will be implementing, the source reduction measures identified in the review and plan or the plan summary according to the implementation schedule contained in the review and plan or the plan summary. A generator may determine not to implement a measure selected in paragraph (5) of subdivision (b) only if the generator determines, upon conducting further analysis or due to unexpected circumstances, that the selected measure is not technically feasible or economically practicable, or if attempts to implement that measure reveal that the measure would result in, or has resulted in, any of the following:

(1) An increase in the generation of hazardous waste.

(2) An increase in the release of hazardous chemicals to other environmental media.

(3) Adverse impacts on product quality.

(4) A significant increase in the risk of an adverse impact to human health or the environment.

(g) If the generator elects not to implement the review and plan or plan summary, including, but not limited to, a selected measure pursuant to subdivision (f), the generator shall amend its review and plan and plan summary to reflect this rejection and include in the review and plan and plan summary proper documentation identifying the rationale for this rejection.

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

Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

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

Since existing law requires the State Department of Health Services to adopt regulations pursuant to the Hazardous Waste Source Reduction Program by September 1, 1991, and this act would clarify an important component of these regulations relating to the definition of routinely generated hazardous waste, thereby protecting public health and safety and the environment, it is necessary that this act take effect immediately.

CHAPTER 539

An act to amend Sections 1153, 1182, 1192, 1192.5, 1194.6, 1194.8, 1194.95, and 1197 of, to add Sections 1194.81, 1194.82, 1194.86, 1194.87, 1194.88, and 1196.1 to, and to repeal Sections 1150, 1151, 1151.6, 1176, 1176.1, and 1176.7 of, the Insurance Code, relating to insurance.

[Approved by Governor October 5, 1991. Filed with Secretary of State October 7, 1991.]

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

SECTION 1. Section 1150 of the Insurance Code is repealed.

SEC. 2. Section 1151 of the Insurance Code is repealed.

SEC. 3. Section 1151.6 of the Insurance Code is repealed.

SEC. 4. Section 1153 of the Insurance Code is amended to read:

1153. An insurer shall not be admitted within three years from and after the time when it commences business as an insurer, nor within three years from and after the time when it is first incorporated, unless assets equal to the sum of its liabilities and the minimum capital and surplus required for admission are maintained in cash or one or more of the following:

(a) Securities specified in Sections 1170 to 1175, inclusive.

(b) Premiums which are in the course of collection, or agents' balances representing premiums, on policies effected not more than 90 days prior to the date on which these premiums or balances are valued for the purpose of this section, and earned service fees receivable, not over 90 days due, and evidences of debt representing such assets.

(c) In the case of a life insurer, the amount of current deferred premiums receivable, after deducting therefrom the amount of the loading.

(d) Interest accrued and dividends declared, receivable on any of the assets specified in subdivisions (a) to (c), inclusive, no part of which interest or dividends has been due in excess of one year.

(e) Amount of reinsurance recoverable from admitted insurers.

SEC. 5. Section 1176 of the Insurance Code is repealed.

SEC. 6. Section 1176.1 of the Insurance Code is repealed.

SEC. 7. Section 1176.7 of the Insurance Code is repealed.

SEC. 8. Section 1182 of the Insurance Code is amended to read:

1182. Domestic incorporated insurers may invest in an account or accounts in one or more banks or savings and loan associations to the extent the account or accounts are insured by an agency or instrumentality of the federal government. As used in this section, an account may include a certificate of deposit.

SEC. 9. Section 1192 of the Insurance Code is amended to read:

1192. Excess funds investments may be made in:

(a) Interest-bearing obligations issued by a nonaffiliate institution, as defined in paragraph (5) of subdivision (f) of Section 1196.1, organized under the laws of any state, or of the United States, or of the District of Columbia, or of the Dominion of Canada or of any province of the Dominion of Canada, or interest-bearing obligations registered with the Securities Exchange Commission and publicly traded issued by an affiliate corporation organized under the laws of any state, or of the United States, or of the District of Columbia, or of the Dominion of Canada or of any province of the Dominion of Canada, or interest-bearing obligations issued by an authority established pursuant to the California Industrial Development Financing Act provided for in Title 10 (commencing with Section 91500) of the Government Code, to which the corporation is obligated with respect to payment, or

(b) Equipment trust obligations or certificates, or other adequately secured instruments, evidencing an interest in or lien upon transportation equipment used or to be used by a common carrier or common carriers and a right to receive determined portions of fixed obligatory payments for the use or purchase of this equipment, when the obligations, certificates or instruments are issued by a corporation specified in paragraph (a) or are unconditionally guaranteed or assumed by the corporation as to principal and as to interest or dividends and as to the payment of the fixed obligatory payments or the payment of the determined portions thereof.

SEC. 10. Section 1192.5 of the Insurance Code is amended to read:

1192.5. Excess funds investments may be made in all deposits and debt obligations of banks or savings and loan associations whose accounts are insured by an agency or instrumentality of the federal government including accounts or certificates of deposit not subject to Section 1182, bankers' acceptances, and commercial paper.

SEC. 11. Section 1194.6 of the Insurance Code is amended to read:

1194.6. (a) Excess funds investments may be made by an insurer in bonds, notes, or other evidences of indebtedness payable in United States dollars, and issued by a corporation incorporated under the laws of an alien government provided all of the following conditions are met:

(1) All the stock of the corporation is owned and ultimately controlled by a domestic corporation.

(2) Payment in full of any bond, note, or other evidence of indebtedness is guaranteed by the domestic corporation.

(3) Any bond, note, or other evidence of indebtedness is evaluated by the National Association of Insurance Commissioners as a bond which may be carried at amortized cost.

(b) Excess fund investments may be made by a life insurer in bonds, notes, or other evidence of indebtedness payable in a currency other than United States dollars and issued by a corporation incorporated under the laws of an alien government provided all the following conditions are met:

(1) All of the stock of the corporation is owned and ultimately controlled by a domestic corporation.

(2) Payment in full of any bond, note, or other evidence of indebtedness is guaranteed by the domestic corporation.

(3) Any bond, note, or other evidence of indebtedness is evaluated by the National Association of Insurance Commissioners as a bond which may be carried at amortized cost.

(4) The life insurer shall, prior to or within five business days after purchase, enter into a contract with a qualified bank pursuant to which the bank agrees to exchange the payments made on the nondollar denominated investment for the full term to maturity of the investment for United States currency at a rate approximating the prevailing exchange rate at the time of the purchase. For purposes of this subdivision, a qualified bank means a bank the accounts of which are insured by an agency or instrumentality of the federal government or which is a member of the Federal Reserve System and a bank that has a net worth equal to or in excess of two hundred fifty million dollars ($250,000,000) as shown on its most recently published financial statements.

(c) "Domestic," as used in this section, means organized under the laws of any state, or of the United States or of the District of Columbia.

SEC. 12. Section 1194.8 of the Insurance Code is amended to read:

1194.8. (a) Excess fund investments may be made by a domestic insurer in real estate and leases thereof and in making improvements thereon for business or residential purposes as an investment for the production of income. The phrase "business or residential purposes" shall not include real estate or leases primarily intended for use or valued as agricultural, horticultural, farm, ranch or mineral property. Any such investment may be made by admitted insurers having admitted assets aggregating in value not less than twenty-five million

dollars ($25,000,000).

Domestic insurers, other than life, title, mortgage and mortgage guaranty insurers, having admitted assets aggregating in value less than twenty-five million dollars ($25,000,000) but not less than ten million dollars ($10,000,000) may also qualify to make such investments for a period of 12 months with the prior approval of the commissioner. Real estate and leases acquired and improvements made thereon under this section shall not exceed in the aggregate an amount equal to 10 percent of the insurer's admitted assets. Real estate and leases acquired under this section shall be in addition to that which is authorized to be acquired under the provisions of paragraphs (a) to (h), inclusive, of Section 1194.86. Except upon the prior approval in writing of the commissioner, an investment may not be made under the authority of this section if at the time of the making of the investment it would result in the insurer then owning real estate and leases thereof, other than of the kind and for the purposes described in paragraphs (a), (b), and (f) of Section 1194.86, in an amount exceeding 10 percent of the insurer's admitted assets. Any investment in a single parcel of real estate or in a single leasehold including improvements thereon made under the authority of this section shall not be made in an amount in excess of 1 percent of the insurer's admitted assets or 10 percent of the aggregate of the insurer's capital paid-up and unassigned surplus, whichever amount is larger. A lease eligible for purchase hereunder shall be for a term which at the date of purchase shall not expire for at least 24 years. Percentage or dollar value of assets and capital paid-up and unassigned surplus as provided herein shall be determined by the insurer's last preceding annual statement of conditions and affairs made as of the December 31st last preceding and which has been filed with the commissioner pursuant to law.

(b) In computing the value of real estate held by a domestic insurer for the purpose of complying with the asset standards or percentage of asset standards, the insurer shall add the net equity of the real estate owned by the insured to the amount of encumbrances and liens against the property for which the insurer could be held liable for any deficiency in the event of foreclosure or other action to realize the value of the liens. "Net equity" as used in this section means book value less the value of liens and encumbrances.

(c) Notwithstanding subdivision (a) or Section 1100, excess fund investments may be made by a domestic life insurer as an investment for the production of income in interests in publicly traded limited partnerships, limited partnerships in which the life insurer is the general partner, general partnerships, or in shares of beneficial interests in trusts substantially all the assets of which are real estate or leases thereof or improvements thereon for business or residential purposes. "Business or residential purposes" does not include real estate or leases primarily intended for use or valued as agricultural, horticultural, farm, ranch, or mineral property. Any investment authorized by this subdivision may be made by domestic life insurers

having admitted assets aggregating in value not less than one hundred million dollars ($100,000,000).

Investments acquired pursuant to this subdivision shall be in addition to investments authorized to be acquired under subdivisions (a) to (h), inclusive, of Section 1194.86. Except upon the prior approval in writing of the commissioner, an investment may not be made under the authority of this subdivision in a general partnership or a nonpublicly traded trust if at the time of the making of the investment it would result in the life insurer owning aggregate interests in those investments in an amount exceeding 3 percent of the life insurer's admitted assets. Except upon the prior approval in writing of the commissioner, an investment may not be made if at the time it would result in the life insurer owning interests in general or limited partnerships or in shares of beneficial interests in trusts in an amount exceeding 10 percent of the life insurer's admitted assets.

An investment in a single partnership or shares of beneficial interest in a single trust made pursuant to this subdivision shall not be made in an amount in excess of 1 percent of the life insurer's admitted assets or 10 percent of the aggregate of the life insurer's capital paid-up and unassigned surplus, whichever is larger. Percentage or dollar value of assets and capital paid-up and unassigned surplus as provided herein shall be determined by the life insurer's last preceding annual statement of conditions and affairs made as of the December 31st last preceding and which has been filed with the commissioner pursuant to applicable provisions of law.

For purposes of this subdivision, "publicly traded" means securities of a limited partnership or trust listed and traded on a securities exchange subject to regulation, supervision, or control under a statute of the United States or listed on the NASDAQ system.

(d) Investments made pursuant to subdivisions (a) and (c) shall not exceed in the aggregate an amount equal to 10 percent of the insurer's admitted assets and shall produce sufficient cash-flow to amortize any mortgage, except with the prior written consent of the commissioner.

SEC. 13. Section 1194.81 is added to the Insurance Code, to read:

1194.81. Domestic incorporated insurers may invest in notes or bonds secured by a mortgage or other first lien upon unencumbered real property meeting the criteria of subdivision (e), if the secured obligation meets the conditions of subdivisions (a) and (b), as follows:

(a) There exists no condition or right of reentry or of forfeiture under which the lien can be cut off, subordinated, or otherwise disturbed.

(b) The secured obligation satisfies the conditions of paragraph (1), (2), (3), or (4), as follows:

(1) The principal so loaned or the entire note or bond issue so secured, plus the amount of the liens of any public bond, assessment, or tax assessed upon the property loaned upon, does not exceed 80 percent of the market value of that real property, together with

improvements which are taken as security at the date of investment.

(2) Where the loan is insured by an admitted mortgage guaranty insurer conforming to the provisions of Chapter 2A (commencing with Section 12640.01) of Part 6 of Division 2, the unguaranteed portion of the loan, plus the amount of the liens of any public bond, assessment, or tax assessed upon the property loaned upon, does not exceed 80 percent of the market value of that real property, together with improvements which are taken as security at the date of investment.

(3) Where the loan is made or the notes or bonds are issued for a building loan on real property, the principal so loaned, or the entire outstanding notes or bonds so issued, plus the amount of the lien of any public bond, assessment, or tax assessed upon the property loaned upon, at no time exceeds 80 percent of the market value of the real property together with the actual cost of the improvements thereon taken as security.

(4) Where the loan is secured by a first mortgage or other first lien upon real property primarily improved with a residential building, or buildings, which for the purposes of this paragraph includes a condominium unit, designed for occupancy by not more than four families, the terms of the loan provide for monthly payments of principal and interest sufficient to effect full repayment of the loan within the remaining useful life of the building as estimated in the appraisal for the loan, or 40 years, whichever is less, and the principal so loaned or the entire note or bond issue so secured, plus the amount of the liens of any public bond, assessment, or tax assessed upon the property loaned, does not exceed 90 percent of the market value of that real property, or of that real property together with improvements which are taken as security on the date of investment.

(c) Real property is not encumbered within the meaning of this section if subject only to one or more of the following:

(1) The lien of taxes and assessments not delinquent at the time of investment.

(2) The lien for delinquent taxes or assessments delinquent at the time of investment, which are being contested by any legal proceedings, if indemnity has been given pursuant to the indenture under which the bonds and notes are issued, or otherwise, for the payment of any amount which may be found to be due upon the final adjudication of that contest.

(3) The lien of taxes and assessments becoming delinquent subsequent to the time of investment.

(4) Outstanding mineral, oil or timber rights.

(5) Easements or rights-of-way.

(6) Sewer rights.

(7) Rights in walls.

(8) Building restrictions or other restrictive covenants, or conditions or regulations of use, or leases under which rents or profits are reserved to the owner.

(d) For the purposes of this section, delinquent taxes funded on

any deferred payment plan shall be deemed delinquent.

(e) Only real property meeting the following criteria of paragraph (1), (2), or (3) may secure notes or bonds eligible for investment under this section:

(1) There is an improvement on the real property with a value that is substantial in relation to the total value of the property.

(2) There is no improvement on the real property, but the funds loaned on account of the secured obligation, which meets the criteria of paragraph (3) of subdivision (b), are used to construct an improvement on real property and the value of the improvement constructed on the real property is at all times substantial in relation to the amount of the construction loan funds advanced by the insurer and drawn down by or on account of the borrower.

(3) There is no improvement on the real property, but the property is revenue producing and is used primarily as agricultural, horticultural, farm, or ranch property.

(4) There is no improvement on the real property, but the note or bond secured by that real property is held in conjunction with another note or bond held by the insurer that is secured by other real property on which there exists a substantial improvement. However, the value of the unimproved real property may not exceed 20 percent of the total value of all real property taken as security for all those notes or bonds.

SEC. 14. Section 1194.82 is added to the Insurance Code, to read:

1194.82. (a) An insurer may invest in notes or bonds secured by second mortgages or other second liens, including all inclusive or wraparound mortgages or liens, upon real property encumbered only by a first mortgage or lien which meets the requirements set forth in Section 1194.81, subject to either of the following conditions:

(1) The insurer also owns the note or bond secured by the prior first mortgage or lien and the aggregate value of both loans does not exceed the loan to market value ratio requirements of Section 1194.81.

(2) The note or bond is secured by an "all-inclusive" or "wraparound" lien or mortgage which conforms to the requirements specified in subdivision (b), provided that the aggregate value of the resulting loan does not exceed the loan to market value ratio requirements of Section 1194.81.

(b) The terms "wraparound" and "all-inclusive" lien or mortgage refer to a loan made by an insurer to a borrower on the security of a mortgage or lien on real property other than property containing a residence of one to four units or upon which a residence of one to four units is to be constructed, where the real property is encumbered by a first mortgage or lien and which loan is subject to all of the following:

(1) There is no more than one preexisting mortgage or lien on the real property.

(2) The total amount of the obligation of the borrower to the insurer under the loan is not less than the sum of the amount

disbursed by the insurer on account of the loan and the outstanding balance of the obligation secured by the preexisting lien or mortgage.

(3) The instrument evidencing the lien or mortgage by which the obligation of the borrower to the insurer under the loan is secured, is recorded, and the lien is insured under a policy of title insurance in an amount not less than the total amount of the obligation of the borrower to the insurer under the loan.

(4) The insurer either (A) pursuant to subdivision (b) of Section 2924 of the Civil Code, files for record in the office of the recorder of the county in which the real property is located a duly acknowledged request for a copy of any notice of default or of sale under the preexisting lien, (B) otherwise arranges with the recorder of any county in which the real property is located to be advised in case of the filing for record of any notice of default or of sale with respect to any obligation secured by the preexisting lien, or (C) is entitled under applicable law to receive notice of default, sale, and foreclosure of the preexisting lien.

(5) The amount disbursed by an insurer under any single wraparound or all-inclusive loan made pursuant to this section shall not exceed the greater of 1 percent of the insurer's admitted assets or 10 percent of the aggregate of the insurer's capital paid-up and unassigned surplus.

SEC. 15. Section 1194.86 is added to the Insurance Code, to read:

1194.86. Every admitted incorporated insurer may purchase, hold, or convey real estate only for the following purposes and in the following manner:

(a) The building in which it has its principal office and the land upon which that building stands.

(b) Real estate requisite for its accommodation in the convenient transaction of its business.

(c) Real estate acquired by it, or by any person for it, to secure the payment of loans previously contracted or for moneys due.

(d) Real estate purchased at sales upon deeds of trust or upon judgments or decrees obtained for those loans or debts.

(e) Real estate conveyed to it in satisfaction of debts previously contracted in the course of its dealings.

(f) Real estate acquired by gift or devise.

(g) Real estate acquired in part payment of the consideration of the sale of real property owned by it, if each such transaction shall not effect an increase in its investment in such real property.

(h) Upon the written approval of the Insurance Commissioner, real estate requisite or desirable for the protection or enhancement of the value of other real or personal property owned by the insurers.

(i) Real estate and improvements thereon which domestic insurers are permitted to invest pursuant to the provisions and subject to the conditions and limitations of Section 1194.8 or Section 1210.

SEC. 16. Section 1194.87 is added to the Insurance Code, to read:

1194.87. If, after a hearing, the commissioner is satisfied that an

insurer is carrying upon its books any parcel or parcels of real estate at values exceeding the sound market value thereof, he or she may order the insurer to:

(a) Create an adequate contingency reserve against the book value of the parcel or parcels, or

(b) Reduce the book value of the parcel or parcels by a corresponding amount.

In case of real estate, not of a character described in subdivisions (a), (b), (h), or (i) of Section 1194.86 which has been held by the insurer for more than five years, the commissioner may order the insurer to dispose of the real estate within six months if, after a hearing, the commissioner is satisfied that:

(1) The insurer has refused reasonable offers for the sale of the real estate, or

(2) The real estate may be disposed of without undue hardship to the insurer.

For the purpose of enabling him or her to determine upon the issuance of an order pursuant to this section, the commissioner, if he or she is not satisfied with the appraisal furnished at his or her request by the insurer, may appraise the real estate at the expense of the insurer.

The commissioner may suspend or revoke the certificate of authority of an insurer failing to comply with any order issued under the provisions of this section.

SEC. 17. Section 1194.88 is added to the Insurance Code, to read:

1194.88. Every admitted incorporated insurer may, for the protection or enhancement of the value of real property acquired under the provisions of Section 1194.86, use its funds in the manner as it shall deem proper to repair, alter, remodel, rehabilitate, demolish, purchase furnishings or other personal property for use in or otherwise to improve the real estate.

SEC. 18. Section 1194.95 of the Insurance Code is amended to read:

1194.95. Excess funds investments may be made in an electronic computer or data processing machine or system to be used in connection with the business of the insurer; provided, however, that this machine or system shall have an original cost of at least two hundred fifty thousand dollars ($250,000) and shall be amortized in full over a period not to exceed four full calendar years.

SEC. 19. Section 1196.1 is added to the Insurance Code, to read:

1196.1. (a) No domestic insurer shall acquire, directly or indirectly, any medium grade or lower grade obligation of any institution if, after giving effect to any such acquisition, the aggregate amount of all medium grade and lower grade obligations then held by the domestic insurer would exceed 20 percent of its admitted assets, provided that, (1) no more than 10 percent of its admitted assets consists of obligations rated four, five, or six by the Securities Valuation Office; (2) no more than 3 percent of its admitted assets consist of obligations rated five or six by the Securities Valuation

Office; and (3) no more than 1 percent of its admitted assets consists of obligations rated six by the Securities Valuation Office. Attaining or exceeding the limit of any one category shall not preclude an insurer from acquiring obligations in other categories subject to the specific and multicategory limits.

(b) No domestic insurer may invest more than an aggregate of 1 percent of its admitted assets in medium grade obligations issued, guaranteed, or insured by any one institution nor may it invest more than one-half of 1 percent of its admitted assets in lower grade obligations issued, guaranteed, or insured by any one institution. In no event, however, may a domestic insurer invest more than 1 percent of its admitted assets in any medium or lower grade obligations issued, guaranteed, or insured by any one institution.

(c) Notwithstanding subdivision (a) or (b), a domestic insurer may acquire an obligation of an institution in which the insurer already has one or more obligations if the obligation is acquired in order to protect an investment previously made in the obligations of the institution; provided that all of those acquired obligations shall not exceed one-half of 1 percent of the insurer's admitted assets.

(d) Nothing contained in this section; (1) shall prohibit a domestic insurer from acquiring an obligation as a result of a restructuring of a medium or lower grade obligation already held; or (2) shall require a domestic insurer to sell or otherwise dispose of any obligation legally acquired prior to the effective date of this section.

(e) The board of directors of any domestic insurer that acquires or invests, directly or indirectly, more than 2 percent of its admitted assets in medium grade and lower grade obligations, shall adopt a written plan for the making of that investment. The plan, in addition to guidelines with respect to the quality of the issues invested in, shall contain diversification standards including, but not limited to, standards for issuers, industry duration, liquidity, and geographic location.

(f) As used in this section:

(1) "Medium grade obligations" means obligations which are rated three by the Securities Valuation Office of the National Association of Insurance Commissioners.

(2) "Lower grade obligations" means obligations which are rated four, five, or six by the Securities Valuation Office of the National Association of Insurance Commissioners.

(3) "Admitted assets" means the amount shown as of the last day of the most recently concluded annual statement year, computed in the manner prescribed by the commissioner.

(4) "Aggregate amount of medium grade and lower grade obligations" means the aggregate statutory statement value of the obligation.

(5) "Institution" means (A) any corporation, business trust, or limited partnership organized under the laws of any state of the United States, District of Columbia, the Dominion of Canada, any province of the Dominion of Canada or (B) an authority established

pursuant to the California Industrial Development Financing Act, Title 10 (commencing with Section 91500) of the Government Code.

SEC. 20. Section 1197 of the Insurance Code is amended to read:

1197. Excess funds investments shall not be made in a loan to any one borrower in an amount exceeding 10 percent of the capital stock and surplus of the lending insurer.

CHAPTER 540

An act to amend Sections 4353, 4356, 4358, 4359, and 4360 of the Food and Agricultural Code, relating to district agricultural associations.

[Approved by Governor October 5, 1991 Filed with Secretary of State October 7, 1991.]

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

SECTION 1. Section 4353 of the Food and Agricultural Code is amended to read:

4353. The State Race Track Leasing Commission may enter into leases or other agreements for the use of the Del Mar Race Track and any other property owned or controlled by the 22nd District Agricultural Association which the commission shall deem necessary to provide horseracing at Del Mar Race Track. Any such lease or agreement shall be on behalf of the 22nd District Agricultural Association, and the district shall continue in control of its property, subject to the conditions and terms of that lease or agreement.

SEC. 2. Section 4356 of the Food and Agricultural Code is amended to read:

4356. The California Horse Racing Board shall, at the request of the commission, certify the eligibility of any prospective lessee or user of the property to be licensed to conduct horseracing at the Del Mar Race Track.

SEC. 3. Section 4358 of the Food and Agricultural Code is amended to read:

4358. The commission shall follow the same procedures, insofar as appropriate, in leasing, or entering into agreements for the use of, the Del Mar Race Track as the Department of General Services follows in leasing or entering into agreements for other state real property. The commission shall, prior to awarding a lease of, or entering into an agreement for the use of, the Del Mar Race Track, consider all the factors concerning appropriate capital improvement of that racetrack, the financing of the racetrack, additional racing opportunities, and any use of new or additional properties or facilities, including, but not limited to, a grandstand, which factors shall be considered in the award of the lease or entering into the agreement. The commission shall also consult with any affected local

governing bodies, prior to awarding the lease or entering into the agreement.

SEC. 4. Section 4359 of the Food and Agricultural Code is amended to read:

4359. If the commission makes a determination pursuant to this chapter as to the action it proposes to take in awarding the Del Mar Race Track lease or entering into the agreement, it shall report to the Legislature, setting forth the procedures followed by the commission in reaching its determination and the reasons the proposed award or agreement is in the best interests of the state. The commission shall also make recommendations regarding any additional legislation which it deems necessary. However, no legislative action is required to make effective and operative any lease awarded, or agreement entered into, by the commission. The commission shall also make a similar report to the Legislature upon the master plan when that plan is completed.

SEC. 5. Section 4360 of the Food and Agricultural Code is amended to read:

4360. After the award of a lease or entering into an agreement for the use of the Del Mar Race Track, the commission shall meet from time to time to review the operation of the lease or agreement, and the master plan, and any other related matters. It shall also make such recommendations as it deems proper to the Legislature, other state agencies, including, but not limited to, the 22nd District Agricultural Association, and to the lessee or user of the property.

SEC. 6. The State Race Track Leasing Commission may convert the lease for the use of the Del Mar Race Track, which was executed on December 19, 1989, to an agreement having substantially the same provisions, as determined by the commission, without complying with Sections 4358 and 4359 of the Food and Agricultural Code.

CHAPTER 541

An act to add Section 21117 to the Vehicle Code, relating to vehicles.

[Approved by Governor October 5, 1991 Filed with Secretary of State October 7, 1991]

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

SECTION 1. Section 21117 is added to the Vehicle Code, to read:

21117. (a) Local authorities may, notwithstanding Section 21101 or 21101.6, by written agreement approved by their legislative bodies, transfer among themselves the responsibility for maintaining, operating, or controlling public access to any highway under their respective jurisdictions located in or adjacent to an

ecological reserve or an environmentally sensitive area within their respective jurisdictions.

(b) An agreement entered into pursuant to subdivision (a) may authorize the local authority having responsibility for the highway under the agreement to do all of the following:

(1) Limit access by motor vehicles to the highway during certain hours of the day or certain days of the week.

(2) Prohibit access by motor vehicles during certain hours of the day or certain days of the week.

(3) Provide for the construction or erection of barricades or other devices designed or intended to separate pedestrians from vehicles or motor vehicles.

(4) Establish and operate a program by which vehicular access is permitted only in conjunction with specified educational programs or for disabled persons, or both.

(5) Issue temporary permits for special events valid for less than one day.

(c) As used in this section, the term "ecological reserve" has the same meaning as defined in Section 1584 of the Fish and Game Code, and "environmentally sensitive area" has the same meaning as defined in Section 30107.5 of the Public Resources Code.

CHAPTER 542

An act to amend Sections 30 and 31 of, and to add Section 29.5 to, the Business and Professions Code, to amend Sections 4390.16 and 4720.2 of the Civil Code, and to amend Sections 11350.1, 11478.5, and 11478.8 of, and to amend and repeal Section 11350.6 of, the Welfare and Institutions Code, relating to family law.

[Approved by Governor October 5, 1991 Filed with Secretary of State October 7, 1991]

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

SECTION 1. Section 29.5 is added to the Business and Professions Code, to read:

29.5. In addition to other qualifications for licensure prescribed by the various acts of boards under the department, applicants for licensure and licensees renewing their licenses shall also comply with Section 11350.6 of the Welfare and Institutions Code.

SEC. 2. Section 30 of the Business and Professions Code is amended to read:

30. (a) Notwithstanding any other provision of law, any board, as defined in Section 22, and the State Bar and the Department of Real Estate (hereinafter referred to as licensing board) shall at the time of issuance or renewal of the license require that any licensee provide its federal employer identification number (if the licensee

is a partnership) or his or her social security number (for all others).

(b) Any licensee failing to provide the federal identification number or social security number shall be reported by the licensing board to the Franchise Tax Board and, if failing to provide after notification pursuant to paragraph (1) of subdivision (b) of Section 19276 of the Revenue and Taxation Code, shall be subject to the penalty provided in paragraph (2) of subdivision (b) of Section 19276 of the Revenue and Taxation Code.

(c) A licensing board shall, upon request of the Franchise Tax Board, furnish to the Franchise Tax Board the following information with respect to every licensee:

(1) Name.

(2) Address or addresses of record.

(3) Federal employer identification number (if the entity is a partnership) or social security number (for all others).

(4) Type of license.

(5) Effective date of license or renewal.

(6) Expiration date of license.

(7) Whether license is active or inactive, if known.

(8) Whether license is new or renewal.

(d) For the purposes of this section:

(1) "Licensee" means any entity, other than a corporation, authorized by a license, certificate, registration, or other means to engage in a business or profession regulated by this code or referred to in Section 1000 or 3600.

(2) "License" includes a certificate, registration, or any other authorization needed to engage in a business or profession regulated by this code or referred to in Section 1000 or 3600.

(e) The reports required under this section shall be filed on magnetic media or in other machine-readable form, according to standards furnished by the Franchise Tax Board.

(f) Licensing boards shall begin providing to the Franchise Tax Board the information required by this section as soon as economically feasible but no later than July 1, 1987. The information shall be furnished at a time which the Franchise Tax Board may require.

(g) Notwithstanding Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code, the social security number and federal employer identification number furnished pursuant to this section shall not be deemed to be a public record and shall not be open to the public for inspection.

(h) Any deputy, agent, clerk, officer, or employee of any licensing board described in subdivision (a), or any former officer or employee or other individual who in the course of his or her employment or duty has or has had access to the information required to be furnished under this section, shall not disclose or make known in any manner that information, except as provided in this section to the Franchise Tax Board.

(i) It is the intent of the Legislature in enacting this section to

utilize the social security account number or federal employer identification number for the purpose of establishing the identification of persons affected by state tax laws and for purposes of compliance with Section 11350.6 of the Welfare and Institutions Code and, to that end, the information furnished pursuant to this section shall be used exclusively for those purposes.

SEC. 3. Section 31 of the Business and Professions Code, as added by Senate Bill 101 of the 1991–92 Regular Session, is amended to read:

31. (a) As used in this section, "board" means any entity listed in Section 101, the entities referred to in Sections 1000 and 3600, the State Bar, the Department of Real Estate, and any other state agency that issues a license, certificate, or registration authorizing a person to engage in a business or profession.

(b) Each applicant for the issuance or renewal of a license, certificate, registration, or other means to engage in a business or profession regulated by a board who is not in compliance with a judgment or order for support shall be subject to Section 11350.6 of the Welfare and Institutions Code.

(c) "Compliance with a judgment or order for support," has the meaning given in paragraph (4) of subdivision (a) of Section 11350.6 of the Welfare and Institutions Code.

SEC. 4. Section 4390.16 of the Civil Code, as amended by Senate Bill 101 of the 1991–92 Regular Session, is amended to read:

4390.16. (a) Upon receipt of a written request from a district attorney enforcing the obligation of parents to support their children pursuant to Section 11475.1 of the Welfare and Institutions Code, every employer shall cooperate with and provide relevant employment and income information which the employer has in its possession, to the district attorney for the purpose of establishing, modifying, or enforcing the support obligation. No employer shall incur any liability for providing this information to the district attorney.

Relevant employment and income information shall include, but not be limited to, all of the following:

(1) Whether a named person has or has not been employed by an employer.

(2) The full name of the employee or the first and middle initial and last name of the employee.

(3) The employee's last known residence address.

(4) The employee's date of birth.

(5) The employee's social security number.

(6) The dates of employment.

(7) All earnings paid to the employee and reported as W-2 compensation in the prior tax year and the employee's current basic rate of pay.

(8) Whether dependent health insurance coverage is available to the employee through employment.

The district attorney shall notify the employer of the district attorney case file number in making a request pursuant to this

section. The written request shall include at least three of the following elements regarding the person who is the subject of the inquiry: (A) first and last name and middle initial, if known; (B) social security number; (C) driver's license number; (D) birth date; (E) last known address; or (F) spouse's name.

The district attorney shall send a notice that a request for this information has been made to the last known address of the person who is the subject of the inquiry.

(b) The state agency or the local agency, designated to enforce support obligations as required by federal law, shall allow employers to simplify the process of wage withholding by forwarding, as ordered by the court, the amounts of support withheld under more than one court order in a consolidated check, accompanied by an itemized accounting providing names, social security number or other identifying number, and the amount attributable to each obligor.

(c) An employer which fails to provide relevant employment information to the district attorney within 30 days of receiving a request pursuant to subdivision (a) may be assessed a civil penalty of a maximum of five hundred dollars ($500), plus attorneys' fees and costs. Proceedings to impose the civil penalty shall be commenced by the filing and service of an order to show cause.

SEC. 4.5. Section 4720.2 of the Civil Code, as added by Senate Bill 101 of the 1991–92 Regular Session, is amended to read:

4720.2. (a) The statewide uniform guideline for determining child support awards is as follows: CS = K (NCN).

(b) (1) The components of the formula are as follows:

CS = child support amount.

K = adjustment factor for different levels of income.

NCN = noncustodial parent's net monthly disposable income.

TN = total net monthly disposable income of parties.

(2) To compute net disposable income, see paragraph (4) of subdivision (g).

(3) K changes as combined net monthly disposable income changes as follows:

Total Net Disposable Income Per Month	K
$0– 1,667	K = .26
$1,668– 4,999	K = .20 + 100/TN
$5,000–10,000	K = .16 + 300/TN
Over $10,000	K = .12 + 700/TN

(4) For more than one child, multiply CS by:

2 children	1.5
3 children	2
4 children	2.25
5 children	2.5
6 children	2.625
7 children	2.75
8 children	2.813
9 children	2.844
10 children	2.86

(c) The court shall state on the record the net monthly disposable income of each parent.

(d) There shall be a rebuttable presumption affecting the burden of proof that 100 percent of the amount of child support established by the formula set forth in subdivision (a) is the correct amount of child support to be awarded subject to subdivision (e).

(e) The presumption of subdivision (d) may be rebutted by facts showing that application of the guideline would be unjust or inappropriate in a particular case because one or more of the following factors is found to be applicable by a preponderance of the evidence and the revised amount is in the best interests of the child or children:

(1) The parties have stipulated to a different amount of child support under subdivision (k).

(2) The rental value of the family residence in which the children for whose support the award is made are allowed to reside exceeds the mortgage payments, homeowner's insurance, and property taxes. The amount of any adjustment pursuant to this paragraph shall not be greater than the excess amount and shall be made pursuant to former Section 4728.5, prior to its repeal by Chapter 1493 of the Statutes of 1990, and applicable published appellate court decisions.

(3) A parent's subsequent spouse or nonmarital partner has income which helps meet that parent's basic living expenses, thus increasing the parent's disposable income.

(4) The child or children subject to the order are not receiving Aid to Families with Dependent Children and the custodial parent has a higher income than the noncustodial parent. In such a case the court may order the custodial parent to pay support to the noncustodial parent or the court may reduce the amount of support paid by the noncustodial parent.

(5) The child or children subject to the order are not receiving Aid to Families with Dependent Children and the noncustodial parent has parenting time that results in substantial expenses to the noncustodial parent and substantial savings to the custodial parent. In such a case the court may reduce the amount of support paid by the noncustodial parent.

(6) The parent being ordered to pay child support has an extraordinarily high income and the amount determined under the

formula would exceed the needs of the child or children.

(7) Application of the guideline would be unjust or inappropriate due to special circumstances in the particular case. The court shall state on the record the facts constituting the special circumstances.

(f) If the court determines that the presumption provided for in subdivision (d) is rebutted by factors stated in subdivision (e), the court shall state its determination, and any factual basis therefore, in writing or on the record, including, but not limited to, the amount of support that would have been received under the guidelines and including a justification of why the order varies from the guidelines. The court shall make any other findings required by federal law.

(g) (1) The annual gross income of each parent means income from whatever source derived, except as specified in subparagraph (C) and includes, but is not limited to, all of the following:

(A) Income such as commissions, salaries, royalties, wages, bonuses, rents, dividends, pensions, interest, trust income, annuities, workers' compensation benefits, unemployment insurance benefits, disability insurance benefits, and spousal support actually received from a person not a party to the order.

(B) Income from the proprietorship of a business, such as gross receipts from the business reduced by expenditures required for the operation of the business.

(C) In the discretion of the court, employee benefits or self-employment benefits, taking into consideration the benefit to the employee, any corresponding reduction in living expenses, and other relevant facts.

(2) The court may, in its discretion, consider the earning capacity of a parent in lieu of that parent's income, consistent with the best interests of the child.

(3) Annual gross income shall not include any income derived from child support payments actually received and income derived from any public assistance program, eligibility for which is based on a determination of need.

(4) The annual net disposable income of each parent shall be computed by deducting from his or her annual gross income the actual amounts attributable to the following items or other items permitted by this section:

(A) The state and federal income taxes attributed to the parent. Federal and state income tax deductions shall bear an accurate relationship to the tax status of the parties (that is, single, married, married filing separately, or head of household) and number of dependents. State and federal income taxes shall be those actually payable (not necessarily current withholding) after considering appropriate filing status, all available exclusions, deductions, and credits, and the actual tax effects of any deductible support in the present case.

(B) Deductions attributed to the employee's contribution or the self-employed worker's contribution pursuant to the Federal Insurance Contributions Act (FICA), or an amount not to exceed

that allowed under FICA for persons not subject to FICA, provided that the deducted amount is used to secure retirement or disability benefits for the parent.

(C) Deductions for mandatory union dues and retirement benefits, provided that they are required as a condition of employment.

(D) Deductions for health insurance premiums for the parent and for any children the parent has an obligation to support and state disability insurance premiums.

(E) Any child or spousal support actually being paid by the parent pursuant to a court order, to or for the benefit of any person who is not a subject of the award to be established by the court. In the absence of a court order, any child support actually being paid, not to exceed the amount established by these guidelines, for a natural or adopted child or children of the parent not residing in that parent's home, who is not the subject of the award to be established by the court, and of whom the parent has a duty of support.

(F) Job related expenses, if allowed by the court after consideration of whether the expenses are necessary, the benefit to the employee, and any other relevant facts.

(G) A hardship, as defined by former Section 4725, prior to its repeal by Chapter 1493 of the Statutes of 1990, and applicable published appellate court decisions exists. In the event a hardship exists, the amount of the hardship shall not be deducted from the amount of child support but shall be deducted from the income of the party to whom it applies. In applying any hardship under former subdivision (b) of Section 4725, the court shall use the formula provided for in that section and not any local formula in order to provide equity between competing child support orders.

(5) The annual net disposable income shall be divided by 12 to reflect the monthly net disposable income. The court may modify the monthly net disposable income figure thus obtained to reflect the actual or prospective earnings of the parties at the time the determination of support is made.

(h) Unless contrary to federal law, in the event the amount of support calculated by this section is less than the minimum amount mandated by the Agnos Child Support Standards Act of 1984, the amount mandated by that act shall be used. As used in this section, the Agnos Child Support Standards Act of 1984 means the provisions of that act in effect immediately before the changes made by Chapter 1493 of the Statutes of 1990.

(i) The amounts in this subdivision, if ordered to be paid, are considered support.

(1) For the purposes of this subdivision, the net income of the parent paying child support shall be reduced by the amount of any child support paid by that parent under this section. The net income of the parent receiving child support shall not be increased by any amount of child support received under this section.

(2) The following expenses shall be added to the amount of child

support calculated under subdivision (a):

(A) Child care costs, after any applicable tax credits, related to employment shared in accordance with the net income of the parties.

(B) Absent good cause to the contrary, health care and health insurance costs for the children not deducted from gross income under subdivision (g) and health care costs for the children shared in accordance with the net income of the parties.

(3) The following expenses may be added to the amount of child support calculated under subdivision (a):

(A) In the court's discretion and subject to the paying parent's ability to pay, costs related to the special educational or other needs of a child.

(B) Child care costs related to reasonably necessary education or training for employment skills shared in accordance with the net income of the parties.

(C) Travel expenses for visitation shared in accordance with the net income of the parties, unless this creates an unreasonable hardship on one parent. The court shall find on the record or make a written finding of any unreasonable hardship.

(4) Except where there is an assignment of rights pursuant to Section 11477 of the Welfare and Institutions Code, any payment ordered pursuant to this subdivision may be ordered paid directly to a provider of services.

(j) The court may adjust the child support award as appropriate to accommodate seasonal or fluctuating income of either parent.

(k) Unless applicable federal law prohibits, this section shall not impair the right of parties to enter stipulated agreements, except that the court shall not approve a stipulated agreement for a child support award unless all of the following conditions are met:

(1) The parties acknowledge that they are fully informed of their rights pursuant to this title and that the award is being agreed to without coercion or duress.

(2) The parties declare that (A) the agreement is in the best interests of the children involved and (B) their children's needs will be adequately met by the stipulated amount.

(3) The right to support has not been assigned to the county pursuant to Section 11477 of the Welfare and Institutions Code, and no public assistance application is pending.

(*l*) If the parties to a stipulated agreement stipulate to a child award below the amount established by this section, no change of circumstances need be demonstrated to obtain a modification of the child support award to the applicable guideline level or above.

(m) Orders and stipulations otherwise in compliance with this guideline may designate as "family support" an unallocated total sum for support of the spouse and any children without specifically labeling all or any portion as "child support" so long as the amount is adjusted to reflect the effect of additional deductibility. The amount of the order shall be adjusted to maximize the tax benefits

for both parents.

(n) It is the intent of the Legislature that the uniform guidelines provided by this section shall be reviewed by the Legislature at least every four years and revised as appropriate to ensure that its application results in the determination of appropriate child support award amounts. The review shall include consideration of changes necessitated by applicable federal laws and regulations. It is the intent of the Legislature that it shall establish the procedure for the initial review of the guidelines no later than October 1, 1994.

SEC. 4.7. Section 11350.1 of the Welfare and Institutions Code is amended to read:

11350.1. (a) Notwithstanding any other statute, in any action brought by the district attorney for child support of a minor child or children, the action may be prosecuted in the name of the county on behalf of the child, children, or caretaker parent. The caretaker parent shall not be a necessary party in the action but may be subpoenaed as a witness. In an action under this section there shall be no joinder of actions, or coordination of actions, or cross-complaints, and the issues shall be limited strictly to the question of paternity, if applicable, and child support, including an order for medical support. A final determination of parentage may be made in any action under this section as an incident to obtaining an order for support. An action for support or paternity pursuant to this section shall not be delayed or stayed because of the pendency of any other action between the parties. Judgment in an action brought pursuant to this section, and in an action brought pursuant to Section 11350, if at issue, may be rendered pursuant to a noticed motion, which shall inform the defendant that in order to exercise his or her right to trial, he or she must appear at the hearing on the motion.

If the defendant appears at the hearing on the motion, the court shall inquire of him or her if he or she desires to subpoena evidence and witnesses, if paternity is at issue and blood tests have not already been conducted whether he or she desires blood tests, and if he or she desires a trial. If his or her answer is in the affirmative, a continuance shall be granted to allow him or her to exercise those rights. Unless the case is determined to be complex as defined in paragraph (2) of subdivision (e) of Section 11475.1, the continuance shall not postpone the hearing to more than 75 days from the date of service of the summons and complaint. In the event that a continuance is granted, the court may make an order for temporary support without prejudice to the right of the court to make an order for temporary support as otherwise allowed by law.

(b) In any action to enforce a spousal support order the action may be pled in the name of the county in the same manner as an action to establish a child support obligation. The same restrictions on joinder of actions, coordination of actions, and cross-complaints, and delay because of the pendency of any other action as relates to actions to establish a child support obligation shall also apply to

actions to enforce a spousal support order. Nothing contained in this section shall be construed to prevent the parties from bringing an independent action under the Family Law Act (Part 5 (commencing with Section 4000) of Division 4 of the Civil Code) or otherwise, and litigating the issue of support. In that event, the court in those proceedings shall make an independent determination on the issue of support which shall supersede the support order made pursuant to this section.

SEC. 5. Section 11350.6 of the Welfare and Institutions Code, as added by Senate Bill 101 of the 1991–92 Regular Session, is amended to read:

11350.6. (a) As used in this section:

(1) "Board" means any entity specified in Section 101 of the Business and Professions Code, the entities referred to in Sections 1000 and 3600 of the Business and Professions Code, the State Bar of California, the Department of Real Estate, and any other state agency that issues a license, certificate, or registration authorizing a person to engage in a business or profession.

(2) "Licensee" means any individual holding a license, certificate, permit, or registration issued by a state agency to engage in a business or profession.

(3) "License" includes a certificate, permit, registration, or any other authorization to engage in a business or a profession.

(4) "Compliance with a judgment or order for support" means that the obligor is no more than 30 days in arrears in making payments in full for current support, in making periodic payments on a support arrearage, or in making periodic payments on a reimbursement for public assistance, as set forth in a judgment or order for support.

(b) The following actions may be taken to enforce support obligations which are not being met. Whenever a support judgment or order has been rendered by, or registered in, a court of this state, the district attorney may file a certification of support judgment or support order with the State Department of Social Services, verifying under penalty of perjury that there is or has been a judgment or an order for support and that the obligor is not in compliance with the judgment or order for support. The certification shall contain the name, social security number, and last known address of the support obligor. The district attorney, on a monthly basis, shall update this information and submit it to the State Department of Social Services.

(c) The State Department of Social Services shall consolidate the lists received from the various district attorney offices and, subject to subdivisions (e), (f), and (g), within 30 calendar days, shall notify any board which is responsible for the regulating of business or professional licenses, certificates, or registrations of individuals certified as owing support obligations.

(d) Promptly after receiving the certification pursuant to subdivision (b), the State Department of Social Services shall serve

notice of the filing on the support obligor. Service shall be made personally or by mail. The notice shall inform the support obligor of the intent to submit his or her name to any appropriate board. The notice shall inform the obligor that any failure to respond to the notice in writing within 60 days from the date of the mailing of the notice shall result in the submission of his or her name to any appropriate board. The notice shall include the address and phone number of the district attorney's office that submitted the certification of support judgment or order, and a statement of the necessity of obtaining a release from that district attorney's office. The response shall be sent to the district attorney's office which submitted the obligor's name to the State Department of Social Services.

(e) Any district attorney who files a certification pursuant to this section shall establish procedures to allow a support obligor to object to the submission of his or her name to any board, to have the underlying debt and any relevant defenses investigated, and to receive information on the process of obtaining a modification of a support order or assistance in the establishment of a payment schedule on arrearages if the circumstances so warrant.

(f) A support obligor who has requested and obtained a review by the district attorney pursuant to subdivision (e) may petition the superior court in the county of the submitting district attorney for a judicial review of the decision to certify his or her name pursuant to this section. The time for filing of the petition for judicial review shall be within 30 days of the mailing of the notice of the results of the review by the district attorney to the support obligor. The judicial review shall be limited to a determination of the following issues:

(1) Whether there is a support judgment or order.

(2) Whether the petitioner is the obligor covered by the support judgment or order.

(3) Whether the support obligor is or is not in compliance with the judgment or order for support.

(4) Whether the support judgment or order should be modified.

(g) No name shall be submitted by the State Department of Social Services to any board until after the time period for the obligor's response to the notice provided for in subdivision (d) has lapsed and the district attorney has notified the State Department of Social Services that the obligor has failed to respond, or, if the obligor has availed himself or herself of the procedures provided in subdivisions (e) and (f), until after judgment on the petition for judicial review is entered. If an obligor uses the procedures provided in subdivision (e), but does not file a petition for judicial review pursuant to subdivision (f), his or her name may be submitted to any board after the time for filing a petition for judicial review has lapsed.

(h) On or before July 1, 1992, or as soon as economically feasible, and at least annually thereafter, all licensing boards subject to this section, and the Division of Technology of the Department of Consumer Affairs, shall provide to the State Department of Social

Services specified information, on magnetic media or in other machine-readable form according to standards established by the State Department of Social Services, about applicants for licensure and all current licensees. The information to be provided shall include all of the following information concerning the licensee:

(1) Name.

(2) Address of record.

(3) Federal employer identification number or social security number.

(4) Type of license.

(5) Effective date of license or renewal.

(6) Expiration date of license.

(7) Active or inactive status.

(i) The State Department of Social Services, upon receipt of the licensee information, shall identify and notify each board and the Division of Technology of the Department of Consumer Affairs, of the names of any of its licensees who are support obligors subject to this section. The notice shall include name, address, and telephone number of each local agency that submitted information on support obligors to the State Department of Social Services. The notice shall include a certification by the State Department of Social Services that it has verified that the licensee is a support obligor subject to this section. The board shall not issue or renew such a license, certificate, or registration to any person whose name is on the most recent monthly list until the board receives a copy of the release specified in subdivision (k).

(j) The board shall notify an applicant subject to subdivision (h), by first-class mail return receipt requested, that his or her application for the issuance or renewal of a license, certificate, or registration will not be granted because the applicant's name appears on the monthly list.

(k) The State Department of Social Services shall prescribe and furnish release forms for use by the boards. When the obligor is in compliance with the judgment or order for support, the district attorney or local responsible agency shall issue to the obligor a release stating that the person is in compliance with the judgment or order of support for which certification was provided under subdivision (b). If any dispute relating to compliance exists, the relevant procedures provided in subdivisions (e) and (f) shall be applicable.

The issuance of a release shall operate to remove the name of the support obligor from the certified list as specified in subdivision (c), unless a district attorney, pursuant to subdivision (a), certifies subsequent to the issuance of a release that the support obligor is once again not in compliance with a judgment or order for support.

(*l*) The board, upon request of the person applying for the registration, license, or certification whose name appears on the certified list prepared by the State Department of Social Services, may issue to that applicant a temporary registration, license, or

certification valid for a period not to exceed 120 days. If, upon the expiration of the temporary registration, license, or certification, the applicant is in compliance with all judgments or orders for support for which certification has been filed pursuant to subdivision (b), the board shall issue the title, license, certification, or permit to the applicant.

(m) The State Department of Social Services shall adopt regulations necessary to implement the requirements of this section. Those regulations shall include provisions for the State Department of Social Services to identify the applicants whose names have been certified by the district attorneys and to report that information to the appropriate board.

(n) The State Department of Social Services may enter into any agreements with the boards necessary to carry out this section, to the extent that the department has determined that it is cost-effective.

(o) Nothing in this section shall be deemed to limit the filing by a support obligor of a petition for an order to show cause to modify a support judgment or order or to fix a payment schedule on arrearages accruing under a support judgment or order.

(p) The procedures specified in the Administrative Procedure Act (Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code) are not applicable to the denial or failure to renew a license, certificate, or registration pursuant to this section.

(q) In furtherance of the public policy of increasing child support enforcement and collections, the State Department of Social Services shall report on July 1, 1995, to the Legislature and the Governor on all of the following:

(1) The number of delinquent obligors certified by the district attorneys under this section.

(2) The number of support obligors who also were licensees subject to this section.

(3) The number of new licenses and renewals that were delayed and temporary licenses issued subject to this section, and the number of license renewals granted following board receipts of district attorney's releases as provided by the Department of Consumer Affairs by May 1, 1993.

(4) The costs incurred in the implementation and enforcement of this section.

(r) This section shall remain in effect only until January 1, 1997, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1997, deletes or extends that date.

SEC. 6. Section 11478.5 of the Welfare and Institutions Code, as amended by Senate Bill 101 of the 1991–92 Regular Session, is amended to read:

11478.5. (a) There is in the Department of Justice the California Parent Locator Service and Central Registry which shall collect and disseminate all of the following, with respect to any parent who has deserted or abandoned any child, spouse, or former spouse, and with

respect to any parent who has abducted any child:

(1) The full and true name of such parent together with any known aliases.

(2) Date and place of birth.

(3) Physical description.

(4) Social security number.

(5) Employment history and earnings.

(6) Military status and Veterans Administration or military service serial number.

(7) Last known address, telephone number, and date thereof.

(8) Driver's license number, driving record, and vehicle registration information.

(9) Criminal, licensing, and applicant records and information.

(10) (A) Any additional location, asset, and income information, including income tax return information obtained pursuant to Section 19285.1 of the Revenue and Taxation Code, and the address, telephone number, and social security information obtained from a public utility that may be of assistance in locating the alleged abducting or absent parent, spouse, or former spouse, in establishing a parent and child relationship, in enforcing the child support liability of the absent parent, or enforcing the spousal support liability of the spouse or former spouse to the extent required by the state plan pursuant to Section 11475.2.

(B) For purposes of this subdivision "income tax return information" means all of the following regarding the taxpayer:

(i) Assets.

(ii) Credits.

(iii) Deductions.

(iv) Exemptions.

(v) Identity.

(vi) Liabilities.

(vii) Nature, source, and amount of income.

(viii) Net worth.

(ix) Payments.

(x) Receipts.

(xi) Address.

(xii) Social security number.

(b) To effectuate the purposes of this section, the California Parent Locator Service and Central Registry shall, to the extent necessary, utilize the federal parent locator service, and may request and shall receive from all departments, boards, bureaus, or other agencies of the state, or any of its political subdivisions, and the same are authorized to provide that assistance and data which will enable the Department of Justice and public agencies to carry out their powers and duties to locate the parents, spouses, and former spouses, and to identify their assets, to establish a parent and child relationship, to enforce their liability for child or spousal support of their children, for any other obligations incurred on behalf of their children, and to locate and return abducted children to their parents.

(c) (1) To effectuate the purposes of this section, and notwithstanding any other provision of California law, regulation, or tariff, and to the extent permitted by federal law, the California Parent Locator Service and Central Registry may request and shall receive from public utilities, as defined in Section 216 of the Public Utilities Code, customer service information, including the full name, address, telephone number, date of birth, and social security number of customers of the public utility, to the extent that this information is stored within the computer data base of the public utility.

(2) In order to protect the privacy of utility customers, a request to a public utility for customer service information pursuant to this section shall meet the following requirements:

(A) Be submitted to the public utility in writing, on a transmittal document prepared by the California Parent Locator Service and Central Registry and approved by all of the public utilities.

(B) Have the signature of a representative authorized by the California Parent Locator Service and Central Registry.

(C) Contain at least three of the following data elements regarding the person sought:

(i) First and last name, and middle initial, if known.

(ii) Social security number.

(iii) Driver's license number.

(iv) Birth date.

(v) Last known address.

(vi) Spouse's name.

(D) The California Parent Locator Service and Central Registry shall ensure that each public utility has at all times a current list of the names of persons authorized to request customer service information.

(E) The California Parent Locator Service and Central Registry shall ensure that customer service information supplied by a public utility is applicable to the person who is being sought before releasing the information pursuant to subdivision (d).

(3) The public utility may charge a fee to the California Parent Locator Service and Central Registry for each search performed pursuant to this subdivision to cover the actual costs to the public utility for providing this information.

(4) No public utility, or official or employee thereof, shall be subject to criminal or civil liability for the release of customer service information as authorized by this subdivision.

(d) Notwithstanding Section 14202 of the Penal Code, any records established pursuant to this section shall be disseminated only to the Department of Justice, the central registry of this state and other states as defined by federal law and regulations, district attorneys, probation departments, locator services of other states, the federal parent locator service and official child support enforcement agencies, the county department administering aid to families with dependent children, and courts or local agencies having jurisdiction

in support, custody, abduction, adoption, dependency, or abandonment proceedings or actions, or reimbursement proceedings for the support of juveniles who are in out-of-home placement for the purposes set out in Section 11478 and this section.

(e) (1) At no time shall any information received by the California Parent Locator Service and Central Registry be disclosed to any person, agency, or other entity, other than those persons, agencies, and entities specified pursuant to Section 11478, this section, or any other provision of law.

(2) This subdivision shall not affect the right to discovery between parties in any action to establish, modify, or enforce child support, spousal support, or family support.

(f) (1) The Department of Justice, in consultation with the State Department of Social Services, shall promulgate rules and regulations to facilitate maximum and efficient use of the California Parent Locator Service and Central Registry.

(2) The Department of Justice, in consultation with the State Department of Social Services and the Public Utilities Commission, shall develop procedures for obtaining the information described in subdivision (c) from public utilities, and for compensating the public utilities for providing that information.

(g) The State Department of Social Services and the Department of Justice shall implement the provisions of this section regarding public utilities, as defined by Section 216 of the Public Utilities Code, only where there is a reasonable likelihood that the costs of obtaining customer service information from public utilities pursuant to this section would be less than the additional collections obtained through use of that information.

(h) This section shall be construed in a manner consistent with the other provisions of this article.

SEC. 7. Section 11478.8 of the Welfare and Institutions Code, as added by Senate Bill 101 of the 1991–92 Regular Session, is amended to read:

11478.8. (a) Upon receipt of a written request from a district attorney enforcing the obligation of parents to support their children pursuant to Section 11475.1, every employer and labor organization shall cooperate with and provide relevant employment and income information which they have in their possession to the district attorney for the purpose of establishing, modifying, or enforcing the support obligation. No employer or labor organization shall incur any liability for providing this information to the district attorney.

Relevant employment and income information shall include, but not be limited to, all of the following:

(1) Whether a named person has or has not been employed by an employer or whether a named person has or has not been employed to the knowledge of the labor organization.

(2) The full name of the employee or member or the first and middle initial and last name of the employee or member.

(3) The employee's or member's last known residence address.

(4) The employee's or member's date of birth.

(5) The employee's or member's social security number.

(6) The dates of employment.

(7) All earnings paid to the employee or member and reported as W-2 compensation in the prior tax year and the employee's or member's current basic rate of pay.

(8) Whether the dependent health insurance coverage is available to the employee through employment or membership in the labor organization.

The district attorney shall notify the employer and labor organization of the district attorney case file number in making a request pursuant to this section. The written request shall include at least three of the following elements regarding the person who is the subject of the inquiry: (A) first and last name and middle initial, if known; (B) social security number; (C) driver's license number; (D) birth date; (E) last known address; or (F) spouse's name.

The district attorney shall send a notice that a request for this information has been made to the last known address of the person who is the subject of the inquiry.

(b) An employer or labor organization which fails to provide relevant employment information to the district attorney within 20 days of receiving a request pursuant to subdivision (a) may be assessed a civil penalty of a maximum of five hundred dollars ($500), plus attorneys' fees and costs. Proceedings to impose the civil penalty shall be commenced by the filing and service of an order to show cause.

(c) "Labor organization," for the purposes of this section means a labor organization as defined in Section 1117 of the Labor Code or any related benefit trust fund covered under the federal Employee Retirement Income Security Act of 1974 (Chapter 18 (commencing with Section 1001) of Title 29 of the United States Code).

(d) Any reference to the district attorney in this section shall apply only when the district attorney is otherwise ordered or required to act pursuant to existing law. Nothing in this section shall be deemed to mandate additional enforcement or collection duties upon the district attorney beyond those imposed under existing law on the effective date of this section.

SEC. 8. Sections 11 and 12 of Senate Bill 101, of the 1990–91 Regular Session, shall become operative on July 1, 1992, except that the study required by subdivision (b) of Section 4720.1 of the Civil Code shall not be due until December 31, 1992.

SEC. 9. This act shall become operative only if Senate Bill 101 of the 1991–92 Regular Session is enacted and becomes operative.

CHAPTER 543

An act to amend Sections 22114, 22127.1, 22238, 22401.6, and 22909 of, to add Sections 22004.2 and 22403.1 to, and to repeal Section 22401.5 of, the Education Code, relating to the State Teachers' Retirement System, and making an appropriation therefor.

[Approved by Governor October 5, 1991. Filed with Secretary of State October 7, 1991]

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

SECTION 1. Section 22004.2 is added to the Education Code, to read:

22004.2. (a) With respect to members with membership effective dates of December 31, 1989, and earlier, benefit enhancements due to a plan amendment enacted after October 14, 1987, are subject to the limitations imposed by Section 415 of the Internal Revenue Code.

(b) With respect to members with membership effective dates of January 1, 1990, and later, retirement benefits, including enhancements due to a plan amendment, are subject to the limitations imposed by Section 415 of the Internal Revenue Code.

SEC. 2. Section 22114 of the Education Code is amended to read:

22114. (a) "Compensation" and "salary" mean:

(1) Remuneration in cash payable by the employer to the member.

(2) Any member contributions paid by the employer pursuant to Sections 23000.1 and 23000.5.

(3) Any amount deducted from the member's salary for payment to one other than the member for the purpose of purchasing an annuity contract for the member under an annuity plan which meets the requirements of Section 403(b) of the Internal Revenue Code of 1954 (26 U.S.C. Sec. 403(b)).

(4) Any amount deducted from a member's wages for participation in a deferred compensation plan established pursuant to Chapter 4 (commencing with Section 19993) of Part 2.6 of Division 5 of Title 2, or pursuant to Article 1.1 (commencing with Section 53212) of Chapter 2 of Part 1 of Division 2 of Title 5, of the Government Code.

(5) Any amount deducted from the member's salary for payment for participation in a voluntary tax-deferred retirement plan which meets the requirements of Section 401(k) of the Internal Revenue Code of 1954 (26 U.S.C. Sec. 401(k)).

(6) Any other payments the board may determine to be "compensation" and "salary."

(b) "Compensation" and "salary" do not mean, and shall not include, any of the following:

(1) Job-related expenses.

(2) Money paid to the employee for overtime service on and after July 1, 1956.

(3) Compensatory damages and money paid to the member in excess of regular salary as a compromise settlement of a dispute arising from termination of a member's employment contract.

(4) Lump-sum payments for accumulated sick leave or accumulated vacation leave.

(5) Money paid for summer school employment.

(6) Money paid as a bonus; for purposes of this part, a bonus is a payment made only to a selected employee or employees and not to the entire class of employees on a systematic basis.

(7) Tax-sheltered annuity contributions which do not result in a reduction of the earned contract salary paid to the employee.

(8) Fringe benefits paid for by the employer in lieu of salary.

(9) Money not available for payment of salaries and which is applied by an employer for the purchase of annuity contracts or for other insurance programs, including those which meet the requirements of Section 403(b) of the Internal Revenue Code of 1954.

(10) Money not available for payment of salaries and which is applied by an employer for the purchase of a tax-deferred retirement plan which meets the requirements of Section 401(k) of the Internal Revenue Code.

(11) Money paid as a stipend to mentor teachers pursuant to subdivision (a) of Section 44494.

(12) Any other payments the board may determine not to be "compensation" and "salary."

(c) Any moneys paid under paragraphs (1) to (12), inclusive, of subdivision (b), shall not be included as a part of the member's compensation subject to contributions reported to the system.

(d) The system may establish procedures to ensure that information reported by employers is in compliance with this section.

(e) The Legislature finds and declares that any person who willfully reports compensation in a manner inconsistent with the definitions set forth in this section may be subject to prosecution for fraud, theft, or embezzlement under the Penal Code.

SEC. 3. Section 22127.1 of the Education Code is amended to read:

22127.1. (a) Notwithstanding the first and second paragraphs of Section 22127, "final compensation" means the highest annual compensation earnable by a member who is a classroom teacher who retires, becomes disabled, or dies, after June 30, 1990, during any period of 12 consecutive months during his or her membership in the system. The last 12 consecutive months of employment shall be used by the system in determining final compensation unless designated to the contrary in writing by the member.

(b) Section 22127, except the first paragraph thereof, shall apply to classroom teachers who retire after June 30, 1990, and any

statutory reference to Section 22127 or "final compensation" with respect to a classroom teacher who retires, becomes disabled, or dies, after June 30, 1990, shall be deemed to be a reference to this section.

(c) As used in this section, "classroom teacher" means:

(1) All teachers and substitute teachers in positions requiring certification qualifications who spend, during the last 10 years of their employment with the same employer which immediately precedes their retirement, 60 percent or more of their contract time each year providing direct instruction. For the purpose of determining continuity of employment within the meaning of this subdivision, an authorized leave of absence for sabbatical or illness, or other bargained or employer approved leaves shall not constitute a break in employment.

(2) Other certificated personnel who spend, during the last 10 years of their employment with the same employer which immediately precedes their retirement, 60 percent or more of their contract time each year providing direct services to pupils, including, but not limited to, librarians, counselors, nurses, speech therapists, resource specialists, audiologists, audiometrists, hygienists, optometrists, psychologists, driver safety instructors, and personnel on special assignment to perform school attendance and adjustment services.

(d) As used in this section, "classroom teacher" does not include:

(1) Certificated employees whose job descriptions require an administrative credential.

(2) Certificated employees whose job descriptions include responsibility for supervision of certificated staff.

(3) Certificated employees who serve as advisers, coordinators, consultants, or developers or planners of curricula, instructional materials, or programs, who spend, during the last 10 years of their employment with the same employer which immediately precedes their retirement, less than 60 percent of their contract time in direct instruction.

(4) Certificated employees whose job descriptions require provision of direct instruction or services, but who are functioning in nonteaching assignments.

(5) Classified employees.

(e) This section shall apply only to teachers employed by an employer which has, pursuant to Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code, entered into a written agreement with an exclusive representative, which makes this section applicable to all of its classroom teachers, as defined in subdivision (c).

(f) The written agreement shall include a mechanism to pay for all increases in benefits and allowances provided for by this section through employer contributions or employee contributions or both, which shall be collected and retained by the employer in a trust fund to be used solely and exclusively to pay the system for all increases in benefits and allowance provided by this section and related

administrative costs, a mechanism for disposition of the employee's contributions if employment is terminated before retirement, and for the establishment of a trust fund board. The trust fund board shall administer the trust fund and shall be composed of an equal number of members representing classroom teachers and the employer. The members representing the classroom teachers shall be named by the bargaining agent. If the employer agrees to pay the total cost of the benefit improvement, the establishment of a trust fund and a trust fund board shall be optional to the employer. The employer, within 30 days of receiving an invoice from the system, shall reimburse the system the amount determined by the Teachers' Retirement Board to be equal to the actuarial equivalent of the difference between the allowance the member or beneficiary receives pursuant to this section and the allowance the member or beneficiary would have received if the member's final compensation had been computed under Section 22127 and the proportionate share of the cost to the system, as determined by the Teachers' Retirement Board, of administering this section. The payment shall include the cost of all increases in benefits and allowances provided for by this section for all years of service credited to the member as of the benefit effective date. Interest shall be charged at the regular interest rate for any payment not received within 30 days of the receipt of the invoice. Payments not received within 30 days after receipt of the invoice may be collected pursuant to Section 23007.

(g) Upon the execution of the agreement, the employer shall notify all certificated employees of the agreement and any certificated employee of the employer, who is in the Public Employees' Retirement System pursuant to Section 22608, that he or she may, within 90 days following the date of notification, elect to terminate his or her membership in the Public Employees' Retirement System and become a member of this system. However, only service credited under this system subsequent to the date of that election shall be subject to this section.

(h) An employer which agrees to become subject to this section, shall, on a form and within the timeframes prescribed by the system, certify the eligibility of an employee, upon retirement or eligibility for a disability or family allowance, pursuant to the criteria set forth in this section.

(i) For a nonmember spouse, final compensation shall be determined pursuant to paragraph (2) of subdivision (c) of Section 22658. The employer, within 30 days of receiving an invoice from the system, shall reimburse the system pursuant to subdivision (f). Interest shall be charged at the regular interest rate for payment not received within the prescribed timeframe. Payments not received within 30 days of invoicing may be collected pursuant to Section 23007.

SEC. 4. Section 22238 of the Education Code is amended to read:

22238. Notwithstanding any other provision of law, the board may, pursuant to Section 22222 and in conformance with its fiduciary

duty as set forth in Section 22225.5, enter into correspondent agreements with private lending institutions in this state to utilize the retirement fund to assist system members currently employed in positions requiring or permitting membership in the system, inactive members, disabilitants, and retirants, through financing, to obtain homes in this state.

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

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

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

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

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

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

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

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

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

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

(j) This section shall be known as, and may be cited as, the Dave Elder State Teachers' Retirement System Member Home Loan Program Act.

SEC. 5. Section 22401.5 of the Education Code is repealed.

SEC. 6. Section 22401.6 of the Education Code is amended to read:

22401.6. An application for a retirement allowance, an application for an election, change, or cancellation of a preretirement option, an application for the withdrawal of accumulated annuity deposit contributions, and an application for a refund of the member's accumulated contributions shall contain the signature of the spouse of the member, unless the member declares, in writing, under penalty of perjury, that either: (a) the member does not know, and has taken all reasonable steps to determine, the whereabouts of the spouse; (b) the spouse is incapable of executing the acknowledgement because of an incapacitating mental or physical condition; (c) the member and spouse have executed a marriage settlement agreement pursuant to Chapter 6 (commencing with Section 5133) of Title 8 of Part 5 of Division 4 of the Civil Code which makes the community property law inapplicable to the marriage; (d) the member is not married; or (e) the current spouse has no identifiable community property interest in the benefit.

If a spouse refuses to sign an application, the member may bring an action in court to enforce the spousal signature requirement or to waive the spousal signature requirement. Either party may bring an action pursuant to Section 5125.1 of the Civil Code to determine the rights of the party.

The sole purpose of this section is to provide for spousal protection in the selection of specified benefits made by a member.

SEC. 7. Section 22403.1 is added to the Education Code, to read:

22403.1. Each employing agency shall provide the system with copies of documents respecting the compensation to be paid to employees in that school year. The documents shall be submitted annually as determined by the board and may include, but shall not be limited to, employment contracts, salary schedules, and local board minutes.

SEC. 8. Section 22909 of the Education Code is amended to read:

22909. Notwithstanding Section 22225.5, 22225.52, or 22225.53, a member shall not be required to pay contributions to receive credit for service under Section 22907 in any of the following events:

(a) The service was performed after September 15, 1940, and the member returned to a position requiring membership in this system prior to March 19, 1948.

(b) The service was performed prior to January 1, 1950, and the member was continuously performing that service prior to that date and returned to a position requiring membership in this system within six months following the termination of that service.

(c) The service was performed prior to September 14, 1978, and the member entered that service after December 31, 1949, and returned to a position requiring membership in this system within six months following the termination of that service.

(d) The service was performed prior to January 1, 1992, and the

member entered that service after August 1, 1990, and retired or returned to a position requiring membership in this system and earned additional service credit within six months following the termination of that service or within six months after the completion of any period of rehabilitation offered by the United States government, excluding rehabilitation solely for educational purposes. Notwithstanding Section 22225.5, 22225.51, or 22225.53, the school districts, community college districts, or other agencies employing those members shall not be required to make the contributions required by Chapter 15 (commencing with Section 23400) of this part.

SEC. 9. (a) The Teachers' Retirement Board may establish two full-time positions, as required, to implement Section 22403.1 of the Education Code.

(b) There is hereby appropriated the sum of fifty thousand dollars ($50,000) from the Teachers' Retirement Fund to the Teachers' Retirement Board for expenditure for the purposes of subdivision (a).

CHAPTER 544

An act to amend Sections 20013.6, 21100.5, 21251.14, and 21360 of, to add Sections 20954 and 21239 to, and to add Article 1.5 (commencing with Section 20960) to Chapter 8 of Part 3 of Division 5 of Title 2 of, the Government Code, relating to the Public Employees' Retirement System.

[Approved by Governor October 5, 1991. Filed with Secretary of State October 7, 1991.]

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

SECTION 1. Section 20013.6 of the Government Code is amended to read:

20013.6. Except as otherwise expressly provided, and notwithstanding Section 20035, state miscellaneous members participating in reduced worktime for partial service retirement pursuant to Article 1.7 (commencing with Section 19996.30) of Chapter 7 of Part 2.6 or local members participating in reduced worktime for partial service retirement pursuant to Article 1.5 (commencing with Section 20960) of Chapter 8 of this part, shall be considered members and shall not be considered retired, until they elect to become fully retired.

SEC. 2. Section 20954 is added to the Government Code, to read:

20954. A local member shall be partially retired for service upon his or her written application to the board if he or she has elected to participate in partial service retirement pursuant to Article 1.5 (commencing with Section 20960), provided, he or she is credited

with (a) 20 years of state service with an attained age of 50 years or (b) the necessary years of service with the necessary attained age for retirement and the sum of his or her age, when added to his or her service, equals or exceeds 65 years.

This section shall not apply to a contracting agency or its employees unless and until the contracting agency elects to be subject to it by amendment to its contract made in a manner prescribed for approval of contracts or in the case of a new contract, by express provision of the contract. The operative date of this section with respect to a local member shall be the effective date of the amendment to his or her employer's contract electing to be subject to this section.

SEC. 3. Article 1.5 (commencing with Section 20960) is added to Chapter 8 of Part 3 of Division 5 of Title 2 of the Government Code, to read:

Article 1.5. Reduced Worktime for Partial Service Retirement

20960. It is the intent of the Legislature that reduced worktime for partial service retirement may, at the discretion of a public agency employer, be made available to public agency employees eligible pursuant to Section 20961 who do not desire to work standard working hours on a full-time basis.

20961. Any public agency employee, who is a local member of the system working standard hours on a full-time basis, and who is eligible to retire pursuant to Section 20954 may elect to participate in reduced worktime for partial service retirement pursuant to this article.

20962. "Reduced worktime for partial service retirement" means any arrangement of worktime agreeable to both the public agency employer and the employee which aggregates no less, on a monthly basis, than a 20 percent reduction nor more than a 60 percent reduction from what would in that position be considered full-time employment, combined with the concurrent payment of proportionally reduced compensation and proportionally reduced retirement benefits.

20963. (a) A public agency employee who voluntarily reduces his or her worktime for partial service retirement pursuant to this article, and who subsequently returns to a full-time work schedule pursuant to the policy of the public agency employer, shall be ineligible for five years thereafter to again participate pursuant to this article. The public agency employer may require a participating employee to return to full-time employment only in the event of an emergency requiring his or her full-time service.

(b) A public agency employee who is participating pursuant to this article in reduced worktime for partial service retirement may: (1) elect only once in each fiscal year to further reduce his or her worktime; (2) elect only once in five years to increase his or her worktime to another less than full-time schedule.

20964. All persons employed in reduced worktime positions for partial service retirement pursuant to this article shall receive proportionally reduced compensation and, on a pro rata basis, all benefits customarily available to full-time employees of a public agency in similar classes or positions in accordance with the personnel policies of the public agency employer or pursuant to provisions of a memorandum of understanding reached pursuant to the Meyers-Milias-Brown Act.

20965. A public agency employer may elect to make this article applicable to the agency and if it does so, the public agency employer shall establish such other personnel policies or guidelines as required for the administration of the reduced worktime for partial retirement program within the agency.

SEC. 4. Section 21100.5 of the Government Code is amended to read:

21100.5. A person who has been partially retired under this system pursuant to Article 1.7 (commencing with Section 19996.30) of Chapter 7 of Part 2.6 or pursuant to Article 1.5 (commencing with Section 20960) of Chapter 8 of this part may be reinstated from partial retirement by the board as provided in this article, and thereafter may continue to be employed on a full-time basis by the state, in the same manner as a person who has not been so retired.

SEC. 5. Section 21239 is added to the Government Code, to read:

21239. Article 1.5 (commencing with Section 21220) of Chapter 9 shall not apply to an employee who is participating in reduced worktime for partial service retirement.

SEC. 6. Section 21251.14 of the Government Code is amended to read:

21251.14. (a) A member who elects, pursuant to Article 1.7 (commencing with Section 19996.30) of Chapter 7 of Part 2.6 or pursuant to Article 1.5 (commencing with Section 20960) of Chapter 8 of this part, to participate in partial service retirement, while so participating, shall receive a reduced service retirement allowance. The reduced service retirement allowance shall be the amount of the service retirement allowance to which the employee would otherwise have been entitled had he or she fully retired on the effective date of the partial service retirement, reduced by the percentage of the employee's full-time work which the employee has elected to work while on partial service retirement.

(b) Article 4 (commencing with Section 21330) of Chapter 9 shall not apply to an employee who is participating in reduced worktime for partial service retirement.

(c) For a member who elects pursuant to Article 1.7 (commencing with Section 19996.30) of Chapter 7 of Part 2.6 or pursuant to Article 1.5 (commencing with Section 20960) of Chapter 8 of this part to become fully retired, the current service pension, or current and prior service pensions, as the case may be, upon his or her full service retirement shall be (1) the sum of a current service pension calculated on the basis of service rendered during

participation in reduced worktime in accordance with the formula applicable to his or her current service pension, plus his or her current service pension, or current and prior service pensions, as the case may be, as it was prior to his or her full service retirement, provided, that full service retirement occurs before he or she renders, while participating in reduced worktime for partial service retirement, one year of state service credited under this system; or (2) if he or she has rendered one year or more of such state service while participating in reduced worktime for partial service retirement, a current service pension, or current and prior service pensions, as the case may be, based on the total years of service with which the member is entitled to be credited, calculated on the basis of the formula currently applicable to the employment in which the service was rendered. A member shall receive service credit for service during participation in reduced worktime for partial retirement and service credited at the time of the election to participate in reduced worktime for partial retirement.

SEC. 7. Section 21360 of the Government Code is amended to read:

21360. (a) This system is liable for either the basic or special death benefit upon the death of a member in the following circumstances:

(1) Before the effective date of retirement, and (A) while in state service, or (B) while absent on military service, provided the member has made contributions during the absence under Section 20892.5 or has had contributions made on his or her behalf under Section 20894.5, or (C) within four months after discontinuance of state service, or (D) while on an approved leave of absence, or (E) while physically or mentally incapacitated for the performance of duty, if such incapacity has been continuous from discontinuance of state service, or (F) while employed as a member of a retirement system established under the County Employees Retirement Law of 1937 (Chapter 3 (commencing with Section 31450) of Part 3 of Division 4 of Title 3); provided, such employment resulting in membership was begun on or after October 1, 1957, and within 90 days after discontinuance of state service; or

(2) While in state service in partial service retirement pursuant to Article 1.7 (commencing with Section 19996.30) of Chapter 7 of Part 2.6 or Article 1.5 (commencing with Section 20960) of Chapter 8 of this part; or

(3) On or after the effective date of retirement and before the mailing of a retirement allowance warrant and either within four months of discontinuance of state service or while physically or mentally incapacitated for the performance of duty if such incapacity has been continuous from discontinuance of state service, and providing all of the following conditions exist: (A) the retirement of the member was not compulsory under Article 2 (commencing with Section 20980) of Chapter 8, and (B) the member has not elected optional settlement 2 or 3 or an optional

settlement 4 involving payment of an allowance throughout the life of a beneficiary under Article 4 (commencing with Section 21330) of Chapter 9, and (C) a partially continued allowance under Sections 21263 to 21263.6, inclusive, is not payable.

(b) This system is liable for a limited death benefit, which consists only of the accumulated contributions of the member payable to his or her beneficiary or estate, under the following circumstances:

(1) Upon the death of a member before the effective date of his or her retirement or, with respect to (A) any member whose retirement was not compulsory under Article 2 (commencing with Section 20980) of Chapter 8, and (B) any member who has not elected optional settlement 2 or 3 or an optional settlement 4 involving payment of an allowance throughout the life of a beneficiary under Article 4 (commencing with Section 21330) of Chapter 9, on or after that effective date and before the mailing of the first retirement allowance warrant, and

(2) Under those circumstances in which this system is not liable for either the basic or special death benefit provided in subdivision (a) of this section, and a partially continued allowance under Sections 21263 to 21263.6, inclusive, is not payable.

(c) Liability imposed on this system with respect to the death of a member while on approved leave of absence by amendment to this section enacted during the 1965 Regular Session shall extend to death of members occurring on or after July 1, 1964, and to any benefit for which there would have been liability with respect to the death had that amendment been effective on that date.

SEC. 8. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 545

An act to amend Section 2011 of the Corporations Code, relating to corporations.

[Approved by Governor October 5, 1991. Filed with Secretary of State October 7, 1991]

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

SECTION 1. Section 2011 of the Corporations Code is amended to read:

2011. (a) (1) Causes of action against a dissolved corporation, whether arising before or after the dissolution of the corporation, may be enforced against any of the following:

(A) Against the dissolved corporation, to the extent of its undistributed assets, including, without limitation, any insurance assets held by the corporation that may be available to satisfy claims.

(B) If any of the assets of the dissolved corporation have been distributed to shareholders, against shareholders of the dissolved corporation to the extent of their pro rata share of the claim or to the extent of the corporate assets distributed to them upon dissolution of the corporation, whichever is less.

A shareholder's total liability under this section may not exceed the total amount of assets of the dissolved corporation distributed to the shareholder upon dissolution of the corporation.

(2) Except as set forth in subdivision (c), all causes of action against a shareholder of a dissolved corporation arising under this section are extinguished unless the claimant commences a proceeding to enforce the cause of action against that shareholder of a dissolved corporation prior to the earlier of the following:

(A) The expiration of the statute of limitations applicable to the cause of action.

(B) Four years after the effective date of the dissolution of the corporation.

(3) As a matter of procedure only, and not for purposes of determining liability, shareholders of the dissolved corporation may be sued in the corporate name of the corporation upon any cause of action against the corporation. This section does not affect the rights of the corporation or its creditors under Section 2009, or the rights, if any, of creditors under the Uniform Fraudulent Transfer Act, which may arise against the shareholders of a corporation.

(4) This subdivision applies to corporations dissolved on and after January 1, 1992. Corporations dissolved prior to that date are subject to the law in effect prior to that date.

(b) Summons or other process against such a corporation may be served by delivering a copy thereof to an officer, director or person having charge of its assets or, if no such person can be found, to any agent upon whom process might be served at the time of dissolution.

If none of such persons can be found with due diligence and it is so shown by affidavit to the satisfaction of the court, then the court may make an order that summons or other process be served upon the dissolved corporation by personally delivering a copy thereof, together with a copy of the order, to the Secretary of State or an assistant or deputy secretary of state. Service in this manner is deemed complete on the 10th day after delivery of the process to the Secretary of State.

(c) Every such corporation shall survive and continue to exist indefinitely for the purpose of being sued in any quiet title action. Any judgment rendered in any such action shall bind each and all of its shareholders or other persons having any equity or other interest in such corporation, to the extent of their interest therein, and such action shall have the same force and effect as an action brought under the provisions of Sections 410.50 and 410.60 of the Code of Civil Procedure. Service of summons or other process in any such action may be made as provided in Chapter 4 (commencing with Section 413.10) of Title 5 of Part 2 of the Code of Civil Procedure or as provided in subdivision (b).

(d) Upon receipt of such process and the fee therefor, the Secretary of State forthwith shall give notice to the corporation as provided in Section 1702.

CHAPTER 546

An act to amend Sections 89511, 89513, 89514, 89515, 89516, 89517, 89518, and 89519 of, and to add Sections 89512.5 and 89522 to, the Government Code, relating to campaign funds.

[Approved by Governor October 5, 1991. Filed with Secretary of State October 7, 1991.]

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

SECTION 1. Section 89511 of the Government Code is amended to read:

89511. (a) This article applies to campaign funds held by candidates for elective office, elected officers, controlled committees, ballot measure committees, committees opposed to a candidate or measure, and any committee which qualifies as a committee pursuant to subdivision (a) of Section 82013.

(b) (1) For purposes of this chapter, "campaign funds" includes any contributions, cash, cash equivalents, and other assets received or possessed by a committee as defined by subdivision (a) of Section 82013.

(2) For purposes of this chapter, "committee" means a controlled committee, ballot measure committee, committee opposed to a candidate or measure, and any committee which qualifies as a

committee pursuant to subdivision (a) of Section 82013.

(3) For purposes of this chapter, "substantial personal benefit" means an expenditure of campaign funds which results in a direct personal benefit with a value of more than one hundred dollars ($100) to a candidate, elected officer, or any individual or individuals with authority to approve the expenditure of campaign funds held by a committee.

(4) For purposes of this article, "household" includes the candidate's or elected officer's spouse, dependent children, and parents who reside with the candidate or elected officer.

SEC. 2. Section 89512.5 is added to the Government Code, to read:

89512.5. (a) Subject to the provisions of subdivision (b), any expenditure by a committee not subject to the trust imposed by subdivision (b) of Section 89510 shall be reasonably related to a political, legislative, or governmental purpose of the committee.

(b) Any expenditure by a committee that confers a substantial personal benefit on any individual or individuals with authority to approve the expenditure of campaign funds held by the committee, shall be directly related to a political, legislative, or governmental purpose of the committee.

SEC. 3. Section 89513 of the Government Code is amended to read:

89513. The following provisions govern the use of campaign funds for the specific expenditures set forth in this section. It is the intent of the Legislature that these provisions shall guide the interpretation of the standard imposed by Section 89512 as applied to other expenditures not specifically set forth below.

(a) Campaign funds shall not be used to pay or reimburse the candidate, the elected officer, or any individual or individuals with authority to approve the expenditure of campaign funds held by a committee, or employees or staff of the committee or the elected officer's governmental agency for travel expenses and necessary accommodations except when these expenditures are directly related to a political, legislative, or governmental purpose.

(1) For the purposes of this section, payments or reimbursements for travel and necessary accommodations shall be considered as directly related to a political, legislative, or governmental purpose if the payments would meet standards similar to the standards of the Internal Revenue Service pursuant to Sections 162 and 274 of the Internal Revenue Code for deductions of travel expenses under the federal income tax law.

(2) For the purposes of this section, payments or reimbursement for travel by the household of a candidate or elected officer when traveling to the same destination in order to accompany the candidate or elected officer shall be considered for the same purpose as the candidate's or elected officer's travel.

(3) Whenever campaign funds are used to pay or reimburse a candidate, elected officer, his or her representative, or a member of

the candidate's household for travel expenses and necessary accommodations, the expenditure shall be reported as required by paragraph (7) of subdivision (j) of Section 84211.

(4) Whenever campaign funds are used to pay or reimburse for travel expenses and necessary accommodations, any mileage credit which is earned or awarded pursuant to an airline bonus mileage program shall be deemed personally earned by or awarded to the individual traveler. Neither the earning or awarding of mileage credit, nor the redeeming of credit for actual travel, shall be subject to reporting pursuant to Section 84211.

(b) Campaign funds shall not be used to pay for or reimburse the cost of professional services unless the services are directly related to a political, legislative, or governmental purpose.

(1) Expenditures by a committee to pay for professional services reasonably required by the committee to assist it in the performance of its administrative functions are directly related to a political, legislative, or governmental purpose.

(2) Campaign funds shall not be used to pay health-related expenses for a candidate, elected officer, or any individual or individuals with authority to approve the expenditure of campaign funds held by a committee, or members of his or her household. "Health-related expenses" include, but are not limited to, examinations by physicians, dentists, psychiatrists, psychologists, or counselors, expenses or medications, treatments or medical equipment, expenses for hospitalization, health club dues, and special dietary foods. However, campaign funds may be used to pay employer costs of health care benefits of a bona fide employee or independent contractor of the committee.

(c) Campaign funds shall not be used to pay or reimburse fines, penalties, judgments, or settlements, except those resulting from either of the following:

(1) Parking citations incurred in the performance of an activity which was directly related to a political, legislative, or governmental purpose.

(2) Any other action for which payment of attorney's fees from contributions would be permitted pursuant to this title.

(d) Campaign funds shall not be used for campaign, business, or casual clothing except specialty clothing that is not suitable for everyday use, including, but not limited to, formal wear, where this attire is to be worn by the candidate or elected officer and is directly related to a political, legislative, or governmental purpose.

(e) Except where otherwise prohibited by law, campaign funds may be used to purchase or reimburse for the costs of purchase of tickets to political fundraising events for the attendance of a candidate, elected officer, or his or her immediate family, or an officer, director, employee, or staff of the committee or the elected officer's governmental agency.

(1) Campaign funds shall not be used to pay for or reimburse for the costs of tickets for entertainment or sporting events for the

candidate, elected officer, or members of his or her immediate family, or an officer, director, employee, or staff of the committee, unless their attendance at the event is directly related to a political, legislative, or governmental purpose.

(2) The purchase of tickets for entertainment or sporting events for the benefit of persons other than the candidate, elected officer, or his or her immediate family are governed by subdivision (f).

(f) (1) Campaign funds shall not be used to make personal gifts unless the gift is directly related to a political, legislative, or governmental purpose. The refund of a campaign contribution does not constitute the making of a gift.

Nothing in this section shall prohibit the use of campaign funds to reimburse or otherwise compensate a public employee for services rendered to a candidate or committee while on vacation, leave, or otherwise outside of compensated public time.

(2) An election victory celebration or similar campaign event, or gifts with a total cumulative value of less than two hundred fifty dollars ($250) in a single year made to an individual employee, a committee worker, or an employee of the elected officer's agency, are considered to be directly related to a political, legislative, or governmental purpose. For purposes of this paragraph, a gift to a member of a person's immediate family shall be deemed to be a gift to that person.

(g) Campaign funds shall not be used to make loans other than to organizations pursuant to Section 89515, or, unless otherwise prohibited, to a candidate for elective office, political party, or committee.

SEC. 4. Section 89514 of the Government Code is amended to read:

89514. Expenditures of campaign funds for attorney's fees and other costs in connection with administrative, civil, or criminal litigation are not directly related to a political, legislative, or governmental purpose except where the litigation is directly related to activities of a committee that are consistent with its primary objectives or arises directly out of a committee's activities or out of a candidate's or elected officer's activities, duties, or status as a candidate or elected officer, including, but not limited to, an action to enjoin defamation, defense of an action to enjoin defamation, defense of an action brought for a violation of state or local campaign, disclosure, or election laws, and an action arising from an election contest or recount.

SEC. 5. Section 89515 of the Government Code is amended to read:

89515. Campaign funds may be used to make donations or loans to bona fide charitable, educational, civic, religious, or similar tax-exempt, nonprofit organizations, where no substantial part of the proceeds will have a material financial effect on the candidate, elected officer, campaign treasurer, or any individual or individuals with authority to approve the expenditure of campaign funds held

by a committee, or member of his or her immediate family, and where the donation or loan bears a reasonable relation to a political, legislative, or governmental purpose.

SEC. 6. Section 89516 of the Government Code is amended to read:

89516. Notwithstanding Sections 89512 and 89513, this section governs the use of campaign funds for vehicle expenses.

(a) Campaign funds shall not be used to purchase a vehicle unless both of the following apply:

(1) Title to the vehicle is held by the committee and not the candidate, elected officer, campaign treasurer, or any other individual or individuals with authority to approve the expenditure of campaign funds held by a committee, or a member of his or her immediate family.

(2) The use of the vehicle is directly related to a political, legislative, or governmental purpose.

(b) Campaign funds shall not be used to lease a vehicle unless both of the following apply:

(1) The lessee is the committee, or a state or local government agency and not the candidate, elected officer, or a member of his or her immediate family; or the lessor is a state or local government agency.

(2) The use of the vehicle is directly related to a political, legislative, or governmental purpose.

(c) Campaign funds may be used to pay for or reimburse the operating costs, including, but not limited to, insurance, maintenance, and repairs, for any vehicle for which campaign funds may be spent pursuant to this section.

(d) Campaign funds may be used to reimburse a candidate, elected officer, his or her immediate family, or any individual or individuals with authority to approve the expenditure of campaign funds held by a committee, or an employee or member of the staff of the committee or of the elected officer's governmental agency, for the use of his or her vehicle at the rate approved by the Internal Revenue Service pursuant to Section 162 of the Internal Revenue Code in connection with deductible mileage expenses under the federal income tax law, if both of the following requirements are met:

(1) The vehicle use for which reimbursement is sought is directly related to political, governmental, or legislative purposes.

(2) The specific purpose and mileage in connection with each expenditure is documented in a manner approved by the Internal Revenue Service in connection with deductible mileage expenses.

(e) For the purposes of this section, use of a vehicle is considered to be directly related to a political, legislative, or governmental purpose as long as its use for other purposes is only incidental to its use for political, legislative, or governmental purposes.

SEC. 7. Section 89517 of the Government Code is amended to read:

89517. (a) Campaign funds shall not be used for payment or reimbursement for the lease of real property or for the purchase, lease, or refurbishment of any appliance or equipment, where the lessee or sublessor is, or the legal title resides, in whole or in part, in a candidate, elected officer, campaign treasurer, or any individual or individuals with authority to approve the expenditure of campaign funds, or member of his or her immediate family.

(b) Campaign funds shall not be used to purchase real property. Except as prohibited by subdivision (a), campaign funds may be used to lease real property for up to one year at a time where the use of that property is directly related to political, legislative, or governmental purposes.

(c) For the purposes of this section, real property, appliance, or equipment is considered to be directly related to a political, legislative, or governmental purpose as long as its use for other purposes is only incidental to its use for political, legislative, or governmental purposes.

SEC. 8. Section 89518 of the Government Code is amended to read:

89518. (a) Campaign funds shall not be used to compensate a candidate or elected officer for the performance of political, legislative, or governmental activities, except for reimbursement of out-of-pocket expenses incurred for political, legislative, or governmental purposes.

(b) Campaign funds shall not be used to compensate any individual or individuals with authority to approve the expenditure of campaign funds for the performance of political, legislative, or governmental activities, except as provided in subdivision (b) of Section 89513 and for reimbursement of out-of-pocket expenses incurred for political, legislative, or governmental purposes.

SEC. 9. Section 89519 of the Government Code is amended to read:

89519. Upon leaving any elected office, or at the end of the postelection reporting period following the defeat of a candidate for elective office, whichever occurs last, campaign funds raised after January 1, 1989, under the control of the former candidate or elected officer shall be considered surplus campaign funds and shall be disclosed pursuant to Chapter 4 (commencing with Section 84100) and shall be used only for the following purposes:

(a) The payment of outstanding campaign debts or elected officer's expenses.

(b) The pro rata repayment of contributions.

(c) Donations to any bona fide charitable, educational, civic, religious, or similar tax-exempt, nonprofit organization, where no substantial part of the proceeds will have a material financial effect on the former candidate or elected officer, any member of his or her immediate family, or his or her campaign treasurer.

(d) Contributions to a political party or committee so long as the funds are not used to make contributions in support of or opposition

to a candidate for elective office.

(e) Contributions to support or oppose any candidate for federal office, any candidate for elective office in a state other than California, or any ballot measure.

(f) The payment for professional services reasonably required by the committee to assist in the performance of its administrative functions, including payment for attorney's fees for litigation which arises directly out of a candidate's or elected officer's activities, duties, or status as a candidate or elected officer, including, but not limited to, an action to enjoin defamation, defense of an action brought of a violation of state or local campaign, disclosure, or election laws, and an action arising from an election contest or recount.

SEC. 10. Section 89522 is added to the Government Code, to read:

89522. This chapter shall not be construed to permit an expenditure of campaign funds prohibited by Section 29795 of the Elections Code.

SEC. 11. The Legislature finds and declares that this act furthers the purposes of the Political Reform Act of 1974 within the meaning of subdivision (a) of Section 81012 of the Government Code.

CHAPTER 547

An act to add Section 13975.1 to the Government Code, relating to the Commissioner of Corporations.

[Approved by Governor October 5, 1991 Filed with Secretary of State October 7, 1991.]

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

SECTION 1. Section 13975.1 is added to the Government Code, to read:

13975.1. (a) This section applies to every action brought in the name of the people of the State of California by the Commissioner of Corporations before, on, or after the effective date of this section, when enforcing provisions of those laws administered by the Commissioner of Corporations which authorize the Commissioner of Corporations to seek a permanent or preliminary injunction, restraining order, or writ of mandate, or the appointment of a receiver, monitor, conservator, or other designated fiduciary or officer of the court. Upon a proper showing, a permanent or preliminary injunction, restraining order, or writ of mandate shall be granted and a receiver, monitor, conservator, or other designated fiduciary or officer of the court may be appointed for the defendant or the defendant's assets, or any other ancillary relief may be granted as appropriate. The court may order that the expenses and fees of the receiver, monitor, conservator, or other designated fiduciary or

officer of the court, be paid from the property held by the receiver, monitor, conservator, or other court designated fiduciary or officer, but neither the state, the Business, Transportation, and Housing Agency, nor the Department of Corporations shall be liable for any of those expenses and fees, unless expressly provided for by written contract.

(b) The receiver, monitor, conservator, or other designated fiduciary or officer of the court may do any of the following subject to the direction of the court:

(1) Sue for, collect, receive, and take into possession all the real and personal property derived by any unlawful means, including property with which that property or the proceeds thereof has been commingled if that property or the proceeds thereof cannot be identified in kind because of the commingling.

(2) Take possession of all books, records, and documents relating to any unlawfully obtained property and the proceeds thereof. In addition, they shall have the same right as a defendant to request, obtain, inspect, copy, and obtain copies of books, records, and documents maintained by third parties that relate to unlawfully obtained property and the proceeds thereof.

(3) Transfer, encumber, manage, control, and hold all property subject to the receivership, including the proceeds thereof, in the manner directed or ratified by the court.

(4) Avoid a transfer of any interest in any unlawfully obtained property including the proceeds thereof to any person who committed, aided or abetted, or participated in the commission of unlawful acts or who had knowledge that the property had been unlawfully obtained.

(5) Avoid a transfer of any interest in any unlawfully obtained property including the proceeds thereof made with the intent to hinder or delay the recovery of that property or any interest in it by the receiver or any person from whom the property was unlawfully obtained.

(6) Avoid a transfer of any interest in any unlawfully obtained property including the proceeds thereof that was made within one year before the date of the entry of the receivership order if less than a reasonably equivalent value was given in exchange for the transfer, except that a bona fide transferee for value and without notice that the property had been unlawfully obtained may retain the interest transferred until the value given in exchange for the transfer is returned to the transferee.

(7) Avoid a transfer of any interest in any unlawfully obtained property including the proceeds thereof made within 90 days before the date of the entry of the receivership order to a transferee from whom the defendant unlawfully obtained some property if (A) the receiver establishes that the avoidance of the transfer will promote a fair pro rata distribution of restitution among all people from whom defendants unlawfully obtained property and (B) the transferee cannot establish that the specific property transferred was the same

property which had been unlawfully obtained from the transferee.

(8) Exercise any power authorized by statute or ordered by the court.

(c) No person with actual or constructive notice of the receivership shall interfere with the discharge of the receiver's duties.

(d) No person may file any action or enforce or create any lien, or cause to be issued, served, or levied any summons, subpoena, attachment, or writ of execution against the receiver or any property subject to the receivership without first obtaining prior court approval upon motion with notice to the receiver and the Commissioner of Corporations. Any legal procedure described in this subdivision commenced without prior court approval is void, except as to a bona fide purchaser or encumbrancer for value and without notice of the receivership. No person without notice of the receivership shall incur any liability for commencing or maintaining any legal procedure described by this subdivision.

(e) The court has jurisdiction of all questions arising in the receivership proceedings and may make any orders and judgments as may be required, including orders after noticed motion by the receiver to avoid transfers as provided in paragraphs (4), (5), (6), and (7) of subdivision (b).

(f) This section is cumulative to all other provisions of law.

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

(h) The recordation of a copy of the receivership order imparts constructive notice of the receivership in connection with any matter involving real property located in the county in which the receivership order is recorded.

CHAPTER 548

An act to amend Sections 775, 775.5, and 782 of, and to repeal and add Section 780 of, the Harbors and Navigation Code, relating to vessels.

[Approved by Governor October 5, 1991. Filed with Secretary of State October 7, 1991.]

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

SECTION 1. Section 775 of the Harbors and Navigation Code is amended to read:

775. (a) The Legislature hereby finds and declares all of the following:

(1) Marine sanitation devices should be regulated pursuant to uniform standards and procedures, and California vessel owners should not be subject to any local or state regulation as to the type of marine sanitation devices installed on their vessels.

(2) The proper use of marine sanitation devices is critical to the protection of water quality throughout California, and use of marine sanitation devices is required to be in conformance with the Federal Water Pollution Control Act (33 U.S.C. Sec. 1321 et seq.).

(3) For proper utilization of retention-type marine sanitation devices installed in conformance with the federal Water Pollution Control Act and for the protection of the quality of the waters of this state, adequate vessel pumpout facilities are essential.

(b) It is the intent of the Legislature that every vessel with a toilet shall comply with federal standards for marine sanitation devices.

SEC. 2. Section 775.5 of the Harbors and Navigation Code is amended to read:

775.5. The definitions in this section govern the construction of this chapter:

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

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

(c) "Promulgation date" means the date upon which the initial standards and regulations for marine sanitation devices are promulgated by an appropriate federal agency in accordance with Section 312 of the Federal Water Pollution Control Act, as amended (33 U.S.C. Sec. 1322).

(d) "Sewage" means human body wastes and the wastes from toilets and other receptacles intended to receive or retain body waste.

(e) "Vessel" means every watercraft or other contrivance used or capable of being used as a means of transportation on the waters of the state, excepting foreign and domestic vessels engaged in interstate or foreign commerce upon the waters of the state.

(f) "State board" means the State Water Resources Control Board.

(g) "Regional board" means a California regional water quality control board.

(h) "Waters of this state" shall mean all waters of the state except waters beyond three nautical miles of any shore of the state.

(i) "Department" means the Department of Boating and Waterways.

(j) "No-discharge area" means a body of water designated as a no-discharge area under subsection (f) of Section 312 of the Federal Water Pollution Control Act (33 U.S.C. Sec. 1322 (f)).

(k) "Discharge" means spilling, leaking, pumping, pouring, emitting, emptying, or dumping.

(*l*) "Secured" means, for a marine sanitation device not approved for use in a no-discharge area, mechanically controlling valves or facilities in an identifiable manner to prevent any overboard discharge of sewage.

SEC. 3. Section 780 of the Harbors and Navigation Code is repealed.

SEC. 4. Section 780 is added to the Harbors and Navigation Code, to read:

780. (a) No person shall disconnect, bypass, or operate a marine sanitation device so as to discharge sewage into the waters of this state, unless the particular discharge is expressly authorized or permitted pursuant to state or federal law or regulations. A violation of this subdivision is a misdemeanor.

(b) The following prohibitions apply in no-discharge areas:

(1) No person shall disconnect, bypass, or operate a marine sanitation device so as to potentially discharge sewage.

(2) No person shall occupy or operate a vessel in which a marine sanitation device is installed unless the marine sanitation device is properly secured.

The first violation of this subdivision is an infraction. A second or subsequent violation of this subdivision by any one person is a misdemeanor.

SEC. 5. Section 782 of the Harbors and Navigation Code is amended to read:

782. (a) Excepting laws regulating the discharge of sewage into or upon the navigable waters of any lake, reservoir, or fresh water impoundment of this state, and notwithstanding the provisions of Section 660, no vessel, as defined in subdivision (e) of Section 775.5, shall be subject to any other state or local government law, ordinance, or regulation with respect to the design, manufacture, installation, or use within any vessel of any marine sanitation device.

(b) Notwithstanding any other provision of law, nothing in this chapter precludes or restricts a city, county, or other public agency from adopting rules and regulations with respect to the discharge of sewage from vessels.

(c) State and local peace officers may enforce state laws relating to marine sanitation devices and may inspect vessels if there is reasonable cause to suspect noncompliance with those laws.

SEC. 6. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 549

An act to amend Sections 2551, 2552, 2553, and 2556 of the Streets and Highways Code, relating to highways, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 5, 1991. Filed with Secretary of State October 7, 1991.]

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

SECTION 1. Section 2551 of the Streets and Highways Code is amended to read:

2551. (a) A service authority for freeway emergencies may be established in any county if the board of supervisors of the county and the city councils of a majority of the cities within the county having a majority of the population of cities within the county adopt resolutions providing for the establishment of the authority.

(b) The resolutions may designate the county transportation commission for the county, created pursuant to Division 12 (commencing with Section 130000) of the Public Utilities Code, as the service authority for freeway emergencies. The powers of a commission so designated are limited to those of the service authority.

(c) The Metropolitan Transportation Commission may function as the service authority for freeway emergencies in any or all of the Counties of Santa Clara, San Mateo, Alameda, Contra Costa, Marin, Solano, Sonoma, Napa, and the City and County of San Francisco upon adoption of a resolution by the commission to act as a service authority and upon ratification of the commission's resolution in a particular county by the board of supervisors of the city and county or by the board of supervisors of the county and by the city councils of the cities within the county having a majority of the population of the cities within the county.

(d) The Sacramento Area Council of Governments may function as the service authority for freeway emergencies in any or all of the Counties of Sacramento, Yolo, Yuba, Sutter, and San Joaquin upon adoption of a resolution by the council to act as a service authority and upon ratification of the resolution in a particular county by the board of supervisors of the county and by the city councils of the cities within the county having a majority of the population of the cities within the county.

(e) As used in this chapter, "authority" and "service authority" mean a service authority for freeway emergencies created pursuant to this chapter.

SEC. 1.5. Section 2551 of the Streets and Highways Code is amended to read:

2551. (a) A service authority for freeway emergencies may be established in any county if the board of supervisors of the county

and the city councils of a majority of the cities within the county having a majority of the population of cities within the county adopt resolutions providing for the establishment of the authority.

(b) The resolutions may designate the county transportation commission for the county, created pursuant to Division 12 (commencing with Section 130000) of the Public Utilities Code or council of governments formed pursuant to Chapter 5 (commencing with Section 6500) of Division 7 of Title 1 of the Government Code, as the service authority for freeway emergencies. The powers of a commission or council of governments so designated are limited to those of the service authority.

(c) The Metropolitan Transportation Commission may function as the service authority for freeway emergencies in any or all of the Counties of Santa Clara, San Mateo, Alameda, Contra Costa, Marin, Solano, Sonoma, Napa, and the City and County of San Francisco upon adoption of a resolution by the commission to act as a service authority and upon ratification of the commission's resolution in a particular county by the board of supervisors of the city and county or by the board of supervisors of the county and by the city councils of the cities within the county having a majority of the population of the cities within the county.

(d) The Sacramento Area Council of Governments may function as the service authority for freeway emergencies in any or all of the Counties of Sacramento, Yolo, Yuba, Sutter, and San Joaquin upon adoption of a resolution by the council to act as a service authority and upon ratification of the resolution in a particular county by the board of supervisors of the county and by the city councils of the cities within the county having a majority of the population of the cities within the county.

(e) As used in this chapter, "authority" and "service authority" mean a service authority for freeway emergencies created pursuant to this chapter.

SEC. 2. Section 2552 of the Streets and Highways Code is amended to read:

2552. When the Metropolitan Transportation Commission or the Sacramento Area Council of Governments functions as the service authority for two or more counties, the revenues which it receives pursuant to Section 9250.10 of the Vehicle Code, after retention of amounts necessary to reimburse the commission or the council for its reasonable and necessary administrative costs, shall be expended for implementation, maintenance, and operation of a motorist aid system within those counties. The amount expended for each of those counties shall be in the same proportion as the revenues generated within the county bears to the total revenues received by the commission or the council. Expenditures may be made in a county in addition to revenues proportionately generated if the expenditures are approved by all of the donor county representatives on the service authority.

SEC. 3. Section 2553 of the Streets and Highways Code is

amended to read:

2553. An authority, other than the Metropolitan Transportation Commission, the Sacramento Area Council of Governments, or a county transportation commission designated pursuant to Section 2551, shall have seven members, with two members selected by the board of supervisors and five members selected jointly by the city councils of cities within the county.

If the Metropolitan Transportation Commission functions as a service authority, it shall consist of all the members of the commission as set forth in Section 66503 of the Government Code.

If the Sacramento Area Council of Governments functions as a service authority, it shall consist of (a) all of the members of the board of directors of the council, as set forth in the Joint Powers Agreement of the Sacramento Area Council of Governments, dated October 21, 1980, pursuant to Chapter 5 (commencing with Section 6500) of Division 7 of Title 1 of the Government Code, (b) one member representing San Joaquin County, and (c) one member representing the cities of San Joaquin County.

SEC. 3.5. Section 2553 of the Streets and Highways Code is amended to read:

2553. An authority, other than the Metropolitan Transportation Commission or a county transportation commission or a council of governments designated pursuant to Section 2551, shall have seven members, with two members selected by the board of supervisors and five members selected jointly by the city councils of cities within the county.

If the Metropolitan Transportation Commission functions as a service authority, it shall consist of all the members of the commission as set forth in Section 66503 of the Government Code.

If the Sacramento Area Council of Governments functions as a service authority, it shall consist of (a) all of the members of the board of directors of the council, as set forth in the Joint Powers Agreement of the Sacramento Area Council of Governments, dated October 21, 1980, pursuant to Chapter 5 (commencing with Section 6500) of Division 7 of Title 1 of the Government Code, (b) one member representing San Joaquin County, and (c) one member representing the cities of San Joaquin County.

SEC. 4. Section 2556 of the Streets and Highways Code is amended to read:

2556. An existing service authority established by any of the counties or the city and county enumerated in subdivision (c) of Section 2551 may be merged into a service authority established by the Metropolitan Transportation Commission or by the Sacramento Area Council of Governments.

SEC. 5. Section 1.5 of this bill incorporates amendments to Section 2551 of the Streets and Highways Code proposed by both this bill and AB 1390. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1992, but this bill becomes operative first, (2) each bill amends Section 2551 of the

Streets and Highways Code, and (3) this bill is enacted after AB 1390, in which case Section 2551 of the Streets and Highways Code, as amended by Section 1 of this bill, shall remain operative only until the operative date of AB 1390, at which time Section 1.5 of this bill shall become operative.

SEC. 6. Section 3.5 of this bill incorporates amendments to Section 2553 of the Streets and Highways Code proposed by both this bill and AB 1390. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1992, but this bill becomes operative first, (2) each bill amends Section 2553 of the Streets and Highways Code, and (3) this bill is enacted after AB 1390, in which case Section 2553 of the Streets and Highways Code, as amended by Section 3 of this bill, shall remain operative only until the operative date of AB 1390, at which time Section 3.5 of this bill shall become operative.

SEC. 7. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order that a service authority for freeway emergencies for the Counties of Sacramento, Yolo, Yuba, Sutter, and San Joaquin may begin functioning as soon as possible, it is necessary for this act to take effect immediately.

CHAPTER 550

An act to amend Section 10149 of the Business and Professions Code, to amend Section 2079.8 of the Civil Code, and to amend Sections 2691, 2692, 2693, and 2705 of, and to add Sections 2692.1 and 2705.5 to, the Public Resources Code, relating to seismic safety.

[Approved by Governor October 5, 1991. Filed with Secretary of State October 7, 1991]

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

SECTION 1. Section 10149 of the Business and Professions Code is amended to read:

10149. (a) On or before January 1, 1992, the Seismic Safety Commission shall develop, adopt, and publish a Homeowner's Guide to Earthquake Safety for distribution to licensees for purposes of Section 2079.8 of the Civil Code and, upon request, to any member of the general public.

(b) In developing the guide, the Seismic Safety Commission shall consult with the Office of Emergency Services, the Division of Mines and Geology of the Department of Conservation, the Department of Real Estate, and other interested agencies and persons.

(c) The commission shall, to the extent possible, rely on currently

available data to develop the guide. To the extent necessary, the commission may contract for the development and production of the guide. The commission shall update the contents of the guide whenever it determines that information within the guide is sufficiently inaccurate or incomplete so as to reduce the effectiveness of the guide. The commission shall charge a fee to cover the costs of production, distribution, development, and updating the guide.

(d) The guide shall include, but need not be limited to, all of the following:

(1) Maps and information on geologic and seismic hazard conditions for all areas of the state.

(2) Explanations of the related structural and nonstructural hazards.

(3) Recommendations for mitigating the hazards of an earthquake.

(4) A statement that there are no guarantees of safety or damage prevention that can be made with respect to a major earthquake and that only precautions, such as retrofitting, can be taken to reduce the risk of various types of earthquake damage. For purposes of preparing the statement, the commission shall confer with insurers and design professional associations.

SEC. 2. Section 2079.8 of the Civil Code is amended to read:

2079.8. (a) If a Homeowner's Guide to Earthquake Safety described in Section 10149 of the Business and Professions Code is delivered to a transferee in connection with the transfer of real property, including property specified in Section 1102 or under Chapter 7.5 (commencing with Section 2621) of Division 2 of the Public Resources Code, a seller or broker is not required to provide additional information concerning, and the information shall be deemed to be adequate to inform the transferee regarding, geologic and seismic hazards, in general, as described in the guide, that may affect real property and mitigating measures that the transferee or seller might consider.

(b) Notwithstanding subdivision (a), nothing in this section increases or decreases the duties, if any, of sellers or brokers, including, but not limited to, the duties of a seller or broker under this article, Article 1.5 (commencing with Section 1102) of Chapter 2 of Title 4 of Part 4 of Division 2, or under Chapter 7.5 (commencing with Section 2621) of Division 2 of the Public Resources Code, or alters the duty of a seller or broker to disclose the existence of known hazards on or affecting the real property.

SEC. 3. Section 2691 of the Public Resources Code is amended to read:

2691. The Legislature finds and declares all of the following:

(a) The effects of strong ground shaking, liquefaction, landslides, or other ground failure account for approximately 95 percent of economic losses caused by an earthquake.

(b) Areas subject to these processes during an earthquake have

not been identified or mapped statewide, despite the fact that scientific techniques are available to do so.

(c) It is necessary to identify and map seismic hazard zones in order for cities and counties to adequately prepare the safety element of their general plans and to encourage land use management policies and regulations to reduce and mitigate those hazards to protect public health and safety.

SEC. 4. Section 2692 of the Public Resources Code is amended to read:

2692. (a) It is the intent of the Legislature to provide for a statewide seismic hazard mapping and technical advisory program to assist cities and counties in fulfilling their responsibilities for protecting the public health and safety from the effects of strong ground shaking, liquefaction, landslides, or other ground failure and other seismic hazards caused by earthquakes.

(b) It is further the intent of the Legislature that maps and accompanying information provided pursuant to this chapter be made available to local governments for planning and development purposes.

(c) It is further the intent of the Legislature that the Division of Mines and Geology, in implementing this chapter, shall, to the extent possible, coordinate its activities with, and use existing information generated from, the special studies zones mapping program pursuant to Chapter 7.5 (commencing with Section 2621), the landslide hazard identification program pursuant to Chapter 7.7 (commencing with Section 2670), and the inundation maps prepared pursuant to Section 8589.5 of the Government Code.

SEC. 5. Section 2692.1 is added to the Public Resources Code, to read:

2692.1. The State Geologist may include in maps compiled pursuant to this chapter information on the potential effects of tsunami and seiche when information becomes available from other sources and the State Geologist determines the information is appropriate for use by local government. The State Geologist shall not be required to provide this information unless additional funding is provided both to make the determination and to distribute the tsunami and seiche information.

SEC. 6. Section 2693 of the Public Resources Code is amended to read:

2693. As used in this chapter:

(a) "City" and "county" includes the City and County of San Francisco.

(b) "Geotechnical report" means a report prepared by a certified engineering geologist or a civil engineer practicing within the area of his or her competence, which identifies seismic hazards and recommends mitigation measures to reduce the risk of seismic hazard to acceptable levels.

(c) "Mitigation" means those measures that are consistent with established practice and that will reduce seismic risk to acceptable

levels.

(d) "Project" has the same meaning as in Chapter 7.5 (commencing with Section 2621), except as follows:

(1) A single-family dwelling otherwise qualifying as a project may be exempted by the city or county having jurisdiction of the project.

(2) "Project" does not include alterations or additions to any structure within a seismic hazard zone which do not exceed either 50 percent of the value of the structure or 50 percent of the existing floor area of the structure.

(e) "Commission" means the Seismic Safety Commission.

(f) "Board" means the State Mining and Geology Board.

SEC. 7. Section 2705 of the Public Resources Code is amended to read:

2705. (a) All counties and cities shall collect a fee from each applicant for a building permit. Each such fee shall be equal to a specific amount of the proposed building construction for which the building permit is issued as determined by the local building officials. The fee amount shall be assessed in the following way:

(1) Group R occupancies, as defined in the 1985 Uniform Building Code and adopted in Part 2 (commencing with Section 2-101) of Title 24 of the California Administrative Code, one to three stories in height, except hotels and motels, shall be assessed at the rate of ten dollars ($10) per one hundred thousand dollars ($100,000), with appropriate fractions thereof. Of the amount assessed, three dollars ($3) per one hundred thousand dollars ($100,000), with appropriate fractions thereof, shall be deposited in the Seismic Hazards Identification Fund.

(2) All other buildings shall be assessed at the rate of twenty-one dollars ($21) per one hundred thousand dollars ($100,000), with appropriate fractions thereof. Of the amount assessed, six dollars ($6) per one hundred thousand dollars ($100,000), with appropriate fractions thereof, shall be deposited in the Seismic Hazards Identification Fund.

(3) The fee shall be the amount assessed under paragraph (1) or (2), depending on building type, or fifty cents ($0.50), whichever is the higher.

(b) In lieu of the requirements of subdivision (a), a county or city may elect to include a rate of ten dollars ($10) per one hundred thousand dollars ($100,000), with appropriate fractions thereof, in its basic building permit fee for any Group R occupancy defined in paragraph (1) of subdivision (a), and a rate of twenty-one dollars ($21) per one hundred thousand dollars ($100,000), with appropriate fractions thereof, for all other building types. If collection of the fee is made pursuant to this subdivision, the amount of the fees required to be deposited in the Strong-Motion Instrumentation Special Fund pursuant to Section 2706 shall be equal to the sum of 0.007 percent of the total valuation of any Group R occupancy defined in paragraph (1) of subdivision (a), plus 0.015 percent of the total valuation of all other building types, for which building permits were issued during

the accounting period. The remaining amount of fees shall be deposited in the Seismic Hazards Identification Fund pursuant to Section 2699.5. A county or city electing to collect the fee pursuant to this subdivision need not segregate the fees in a fund separate from any fund into which basic building permit fees are deposited.

"Building," for the purpose of this chapter, is any structure built for the support, shelter, or enclosure of persons, animals, chattels, or property of any kind.

(c) A city or county may retain up to 5 percent of the total amount it collects under subdivision (a) or (b) for data utilization and seismic education incorporating data interpretations from data of the strong-motion instrumentation program and the seismic hazards mapping program.

SEC. 8. Section 2705.5 is added to the Public Resources Code, to read:

2705.5. The Division of Mines and Geology shall advise all counties and cities as to that portion of the total fees charged pursuant to Section 2705 which is to be deposited in the Seismic Hazards Identification Fund, so that this information may be provided to building permit applicants.

CHAPTER 551

An act to amend Section 11365 of the Health and Safety Code, relating to crimes.

[Approved by Governor October 5, 1991 Filed with Secretary of State October 7, 1991]

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

SECTION 1. Section 11365 of the Health and Safety Code is amended to read:

11365. (a) It is unlawful to visit or to be in any room or place where any controlled substances which are specified in subdivision (b), (c), or (e), or paragraph (1) of subdivision (f) of Section 11054, specified in paragraph (14), (15), or (20) of subdivision (d) of Section 11054, or specified in subdivision (b) or (c) or paragraph (2) of subdivision (d) of Section 11055, or which are narcotic drugs classified in Schedule III, IV, or V, are being unlawfully smoked or used with knowledge that such activity is occurring.

(b) This section shall apply only where the defendant aids, assists, or abets the perpetration of the unlawful smoking or use of a controlled substance specified in subdivision (a). This subdivision is declaratory of existing law as expressed in People v. Cressey (1970) 2 Cal. 3d 836.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the

only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 552

An act to add Section 1203.096 to the Penal Code, relating to sentencing.

[Approved by Governor October 5, 1991. Filed with Secretary of State October 7, 1991.]

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

SECTION 1. Section 1203.096 is added to the Penal Code, to read:

1203.096. (a) Upon conviction of any felony in which the defendant is sentenced to state prison and in which the court makes the findings set forth in subdivision (b), a court shall, in addition to any other terms of imprisonment, fine, and conditions, recommend in writing that the defendant participate in a counseling or education program having a substance abuse component while imprisoned.

(b) The court shall make the recommendation specified in subdivision (a) if it finds that any of the following are true:

(1) That the defendant at the time of the commission of the offense was under the influence of any alcoholic beverages.

(2) That the defendant at the time of the commission of the offense was under the influence of any controlled substance.

(3) That the defendant has a demonstrated history of substance abuse.

(4) That the offense or offenses for which the defendant was convicted are drug related.

CHAPTER 553

An act to amend Sections 13550 and 13551 of, and to add Section 13552 to, the Water Code, relating to water.

[Approved by Governor October 5, 1991 Filed with Secretary of State October 7, 1991.]

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

SECTION 1. Section 13550 of the Water Code is amended to read:

13550. (a) The Legislature hereby finds and declares that the use of potable domestic water for nonpotable uses, including, but not limited to, cemeteries, golf courses, parks, highway landscaped areas, and industrial and irrigation uses, is a waste or an unreasonable use of the water within the meaning of Section 2 of Article X of the California Constitution if reclaimed water is available which meets all of the following conditions, as determined by the state board, after notice to any person or entity who may be ordered to use reclaimed water or to cease using potable water and a hearing held pursuant to Article 2 (commencing with Section 648) of Chapter 1.5 of Division 3 of Title 23 of the California Code of Regulations:

(1) The source of reclaimed water is of adequate quality for these uses and is available for these uses. In determining adequate quality, the state board shall consider all relevant factors, including, but not limited to, food and employee safety, and level and types of specific constituents in the reclaimed water affecting these uses, on a user-by-user basis. In addition, the state board shall consider the effect of the use of reclaimed water in lieu of potable water on the generation of hazardous waste and on the quality of wastewater discharges subject to regional, state, or federal permits.

(2) The reclaimed water may be furnished for these uses at a reasonable cost to the user. In determining reasonable cost, the state board shall consider all relevant factors, including, but not limited to, the present and projected costs of supplying , delivering, and treating potable domestic water for these uses and the present and projected costs of supplying and delivering reclaimed water for these uses, and shall find that the cost of supplying the treated reclaimed water is comparable to, or less than, the cost of supplying potable domestic water.

(3) After concurrence with the State Department of Health Services, the use of reclaimed water from the proposed source will not be detrimental to public health.

(4) The use of reclaimed water for these uses will not adversely affect downstream water rights, will not degrade water quality, and is determined not to be injurious to plantlife, fish, and wildlife.

(b) In making the determination pursuant to subdivision (a), the state board shall consider the impact of the cost and quality of the

nonpotable water on each individual user.

(c) The state board may require a public agency or person subject to this article to furnish information which the state board determines to be relevant to making the determination required in subdivision (a).

SEC. 2. Section 13551 of the Water Code is amended to read:

13551. A person or public agency, including a state agency, city, county, city and county, district, or any other political subdivision of the state, shall not use water from any source of quality suitable for potable domestic use for nonpotable uses, including cemeteries, golf courses, parks, highway landscaped areas, and industrial and irrigation uses if suitable reclaimed water is available as provided in Section 13550; however, any use of reclaimed water in lieu of water suitable for potable domestic use shall, to the extent of the reclaimed water so used, be deemed to constitute a reasonable beneficial use of that water and the use of reclaimed water shall not cause any loss or diminution of any existing water right.

SEC. 3. Section 13552 is added to the Water Code, to read:

13552. The amendments to Sections 13550 and 13551 of the Water Code made during the first year of the 1991–92 Regular Session are not intended to alter any rights, remedies, or obligations which may exist prior to January 1, 1992, pursuant to, but not limited to, those sections or Chapter 8.5 (commencing with Section 1501) of Part 1 of Division 1 of the Public Utilities Code.

CHAPTER 554

An act making an appropriation for the payment of claims against the State of California, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 5, 1991. Filed with Secretary of State October 7, 1991.]

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

SECTION 1. The sum of nine hundred eighty-four thousand twenty-one dollars and ninety-two cents ($984,021.92) is hereby appropriated to the Secretary of the State Board of Control to pay claims accepted by the State Board of Control in accordance with the following schedule:

(a)	From the Bank and Corporation Tax Fund ..	$477,254.05
(b)	From the General Fund	18,023.37
(c)	From funds appropriated in Section 2.00 of the Budget Act of 1991, as follows:	
(1)	From Item 0250-001-001(b)	594.94
(3)	From Item 0820-001-001(g)	95.00
(4)	From Item 0840-001-001(b)	100.00
(5)	From Item 0860-001-001(a)	28,300.08
(6)	From Item 0950-001-001(a)	105.00
(7)	From Item 1655-090-702(a)	221.75
(8)	From Item 1730-001-001(a)	63.52
(9)	From Item 1760-001-666(a)	38.27
(10)	From Item 1760-001-666(b)	615.87
(11)	From Item 2240-001-001(a)	706.00
(12)	From Item 2660-001-042(a)	2,793.54
(13)	From Item 2660-001-042(b)	15,126.81
(14)	From Item 2720-001-044(d)	1,868.18
(15)	From Item 2740-001-044(d)	354.60
(16)	From Item 3480-001-001(a)	1,362.90
(17)	From Item 3540-001-001(a)	11,189.02
(19)	From Item 3790-001-001(b)	5,901.42
(20)	From Item 3860-001-001(a)	5,617.54
(21)	From Item 3860-001-001(c)	749.66
(22)	From Item 3860-301-036	188,000.00
(23)	From Item 4200-001-001(c)	1,191.26
(24)	From Item 4260-001-001(2)	1,322.60
(25)	From Item 4260-001-001(3)	243.00
(26)	From Item 4300-001-001(a)	971.00
(27)	From Item 4300-003-001(a)	8,241.15
(28)	From Item 4300-101-001(a)	260.26
(29)	From Item 4440-001-001(a)	1,404.98
(30)	From Item 4440-001-001(b)	11,676.00
(31)	From Item 4440-011-001(a)	184.45
(32)	From Item 4440-011-001(b)	1,860.60
(33)	From Item 5100-001-870(a)	680.60
(34)	From Item 5160-001-001(a)	2,930.00
(35)	From Item 5240-001-001(a)	17,127.82
(36)	From Item 5240-001-001(b)	1,779.55
(37)	From Item 5460-001-001(a)	110.19
(38)	From Item 5460-001-001(b)	6,810.12
(39)	From Item 5460-001-001(c)	340.00
(40)	From Item 6110-001-001(a)	45,839.13
(41)	From Item 6360-001-407(a)	4,163.31
(42)	From Item 6610-001-001(e)	7,527.11
(43)	From Item 8350-001-001(c)	427.00
(44)	From Item 8350-001-001(e)	415.23
(45)	From Item 8660-001-412(a)	1,276.08
(d)	From the Personal Income Tax Fund	698.02

(e)	From the State Compensation Insurance Fund	686.49
(f)	From the Tax Relief and Refund Account	26,113.05
(g)	From the Teachers' Retirement Fund	856.12
(h)	From the Transportation Fund, Motor Vehicle Account	50.00
(i)	From the Transportation Rate Fund	553.24
(j)	From the Unemployment Compensation Disability Fund	2,937.14
(k)	From the Unemployment Fund	295.90
(*l*)	From the Architecture Revolving Fund	75,969.00

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

In order to settle claims against the state and end hardship to claimants as quickly as possible, it is necessary for this act to take effect immediately.

CHAPTER 555

An act to amend Section 19415.5 of, and to add Section 19442.2 to, the Business and Professions Code, relating to horseracing, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 5, 1991 Filed with Secretary of State October 7, 1991.]

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

SECTION 1. Section 19415.5 of the Business and Professions Code is amended to read:

19415.5. "Split meeting" means a meeting having two periods of racing separated by at least 45 days, one period which is no more than 18 consecutive weeks in length and the other period which is no less than four consecutive weeks in length. The "short period" of a split meeting is the period of lesser duration.

SEC. 2. Section 19442.2 is added to the Business and Professions Code, to read:

19442.2. The board shall, if possible, designate at least one steward at each track where a horseracing meeting is conducted who is a former jockey or at least one steward at each track where a harness meeting is conducted who is a former driver.

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

In order for the amendments made by this act to take effect during the 1991 racing season, it is necessary that this act take effect immediately.

CHAPTER 556

An act to amend Section 640.5 of, and to add Section 640.6 to, the Penal Code, relating to graffiti.

[Approved by Governor October 5, 1991. Filed with Secretary of State October 7, 1991]

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

SECTION 1. Section 640.5 of the Penal Code is amended to read:

640.5. (a) Any person who writes, sprays, scratches, or otherwise affixes graffiti on or in the facilities or vehicles of a governmental entity, as defined by Section 811.2 of the Government Code, or on or in the facilities or vehicles of a public transportation system as defined by Section 99211 of the Public Utilities Code, or on or in the facilities of or vehicles operated by entities subsidized by, the Department of Transportation, or on or in any leased or rented facilities or vehicles for which any of the above entities incur costs of less than two hundred fifty dollars ($250) for cleanup, repair, or replacement is guilty of an infraction punishable by a fine not to exceed two hundred fifty dollars ($250) and by community service for a total time not to exceed 48 hours over a period not to exceed 30 days, during a time other than during his or her hours of school attendance or employment. This subdivision does not preclude application of Section 594.

(b) (1) Upon conviction of any person under subdivision (a), the court may, in addition to any punishment imposed pursuant to subdivision (a), at the victim's option, order the defendant to perform the necessary labor to clean up, repair, or replace the property damaged by that person, but shall not order the person to pay for any related costs incurred by the cleanup, repair, or replacement of the property.

(2) If a minor is personally unable to pay any fine levied for violating subdivision (a), the parent or legal guardian of the minor shall be liable for payment of the fine. A court may waive payment of the fine by the parent or legal guardian upon a finding of good cause.

(c) Any fine levied for a violation of subdivision (a) shall be credited by the county treasurer pursuant to Section 1463.29 to the governmental entity having jurisdiction over, or responsibility for, the facility or vehicle involved, to be used for removal of the graffiti. Before crediting these fines to the appropriate governmental entity, the county may determine the administrative costs it has incurred

pursuant to this section, and retain an amount equal to those costs.

Any community service which is required pursuant to subdivision (a) of a person under the age of 18 years may be performed in the presence, and under the direct supervision, of the person's parent or legal guardian.

(d) As used in this section, graffiti means any form of unauthorized painting, writing, or inscription regardless of the content or nature of the material used in the commission of the act.

SEC. 2. Section 640.6 is added to the Penal Code, to read:

640.6. (a) Except as provided in Section 640.5, any person who writes, sprays, scratches, or otherwise affixes graffiti on any real or personal property not his or her own is guilty of an infraction punishable by a fine not to exceed two hundred fifty dollars ($250) if the amount of the defacement, damage, or destruction is less than two hundred fifty dollars ($250). This subdivision does not preclude application of Section 594.

(b) (1) Upon conviction of any person under subdivision (a), the court may, in addition to any punishment imposed pursuant to subdivision (a), order the defendant to complete community service not to exceed 48 hours for the first conviction. Upon the second and subsequent conviction, the court may order the defendant to complete community service not to exceed 96 hours. A defendant shall be ordered to complete community service during a time other than during his or her hours of school attendance or employment.

(2) Upon conviction of any person under subdivision (a), the court may, in addition to any punishment imposed pursuant to subdivision (a), at the victim's option, order the defendant to perform the necessary labor to clean up, repair, or replace the property damaged by that person, but shall not order the person to pay for any related costs incurred by the cleanup, repair, or replacement of the property.

(3) If a minor is personally unable to pay any fine levied for violating subdivision (a), the parent or legal guardian of the minor shall be liable for payment of the fine. A court may waive payment of the fine by the parent or legal guardian upon a finding of good cause.

Any community service which is required pursuant to subdivision (b) of a person under the age of 18 years may be performed in the presence, and under the direct supervision, of the person's parent or legal guardian.

(4) As used in this section, graffiti means any form of unauthorized painting, writing, or inscription regardless of the content or nature of the material used in the commission of the act.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 557

An act to add Section 14669.5 to the Government Code, relating to state buildings, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 5, 1991. Filed with Secretary of State October 7, 1991.]

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

SECTION 1. Section 14669.5 is added to the Government Code, to read:

14669.5. Notwithstanding any other provisions of law, the Director of General Services may enter into an additional amendment to the existing joint powers agreement with the Community Redevelopment Agency of the City of Los Angeles dated June 30, 1982, in connection with the financing, planning, acquisition, and construction of an additional office building and parking facilities in the City of Los Angeles in near proximity to the Ronald Reagan State Building and in connection therewith may enter into a lease-purchase agreement, an agreement for the appointment of a bond trustee, and an agreement for the Department of General Services to act as agent for acquisition, planning, and construction matters, each of which agreements shall be with the joint powers authority created under the joint powers agreement. The amendment to the existing joint powers agreement shall provide that any authorization under the joint powers agreement for the joint powers authority to acquire property by means of condemnation proceedings shall not include the power to condemn the property on which was located, as of January 1, 1991, that certain homeless women's housing and day care center commonly known as the Downtown Women's Center, which property is legally described as set forth below. The lease-purchase agreement may provide for space to be used for private commercial purposes. The director shall notify the chairperson of the Joint Legislative Budget Committee or his or her designee, and the chairpersons of the committees in each house which consider appropriations, of his or her intention to execute the lease-purchase agreement at least 20 days prior to its execution.

The property referred to above is legally described as follows:

THAT PORTION OF THE PROPERTY OF C.E. THOM, IN THE

CITY OF LOS ANGELES, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 72, PAGE 45 OF MISCELLANEOUS RECORDS IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, DESCRIBED AS FOLLOWS: BEGINNING IN THE NORTHWEST LINE OF LOS ANGELES STREET, 77 FEET WIDE, AS ESTABLISHED BY THE CITY ENGINEER OF SAID CITY, DISTANT THEREON SOUTH 38 DEGREES 41 FEET 30 INCHES WEST 219.30 FEET FROM THE SOUTHWEST LINE OF THIRD STREET, 60 FEET WIDE, AS ESTABLISHED BY SAID ENGINEER; THENCE NORTH 54 DEGREES 24 FEET WEST 124.05 FEET TO THE SOUTHEAST LINE OF DOMITILA COHN PANORAMA PROPERTY AS PER MAP RECORDED IN BOOK 12, PAGE 161 OF MAPS IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY; THENCE ALONG SAID LINE SOUTH 34 DEGREES 05 FEET WEST 25.79 FEET TO AN ANGLE POINT THEREIN; THENCE ALONG SAID LINE SOUTH 51 DEGREES 45 FEET WEST 16.54 FEET TO THE NORTHEAST LINE OF LAND DESCRIBED IN DEED RECORDED IN BOOK 3746, PAGE 101 OF DEEDS, RECORDS OF SAID COUNTY; THENCE ALONG SAID NORTHEAST LINE SOUTH 43 DEGREES 50 FEET EAST 126.61 FEET TO SAID NORTHWEST LINE OF LOS ANGELES STREET; THENCE ALONG SAID STREET, NORTH 38 DEGREES 41 FEET 30 INCHES EAST 65 FEET TO THE POINT OF BEGINNING. TOGETHER WITH: THAT PORTION OF THE PROPERTY OF C.E. THOM, IN THE CITY OF LOS ANGELES, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 72, PAGE 45 OF MISCELLANEOUS RECORDS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, DESCRIBED AS FOLLOWS: BEGINNING AT THE INTERSECTION OF THE NORTHERLY LINE OF THE BAKER TRACT, AS PER MAP RECORDED IN BOOK 5, PAGE 459, MISCELLANEOUS RECORDS OF SAID COUNTY, WITH THE WESTERLY LINE OF LOS ANGELES STREET, AS WIDENED BY DECREE OF CONDEMNATION RECORDED IN BOOK 2088, PAGE 256 OF DEEDS; THENCE NORTH 38 DEGREES 35 FEET EAST ALONG SAID LINE OF LOS ANGELES STREET, 50.45 FEET; THENCE NORTH 43 DEGREES 40 FEET WEST, PARALLEL WITH SAID NORTHERLY LINE OF THE BAKER TRACT, AND 50 FEET AT RIGHT ANGLES THEREFROM, 130 FEET, MORE OR LESS, TO A POINT IN THE SOUTHEASTERLY LINE OF DOMITILA COHN PANORAMA PROPERTY, AS PER MAP RECORDED IN BOOK 12, PAGE 161 OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY; THENCE SOUTH 51 DEGREES 45 FEET WEST ALONG SAID SOUTHEASTERLY LINE, 50 FEET, MORE OR LESS, TO SAID NORTHERLY LINE OF SAID BAKER TRACT; THENCE SOUTH 43 DEGREES 40 FEET EAST ALONG SAID NORTHERLY LINE OF SAID BAKER TRACT, 138 FEET TO THE POINT OF

BEGINNING.

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

In order to provide, at the earliest possible time, necessary support services in conjunction with the state office building already constructed under the joint powers agreement dated June 30, 1982, entered into between the Community Redevelopment Agency of the City of Los Angeles and the Department of General Services, it is necessary that this act go into immediate effect.

CHAPTER 558

An act to amend Sections 7850, 7887, 7888, and 7890 of the Fish and Game Code, and to amend Sections 35062 and 35063 of the Public Resources Code, relating to fishing, and making an appropriation therefor.

[Approved by Governor October 5, 1991 Filed with Secretary of State October 7, 1991]

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

SECTION 1. Section 7850 of the Fish and Game Code is amended to read:

7850. (a) Excepting persons expressly exempted under this code, no person shall use or operate, or assist in using or operating, any boat, aircraft, net, trap, line, or other appliance to take fish or amphibia for commercial purposes, and no person shall cause to be brought ashore, any fish or amphibia at any point in the state for the purpose of selling them in a fresh state or shall contribute materially to the activities on board the commercial fishing vessel, unless the person holds a commercial fishing license issued by the department.

(b) Any person not required under subdivision (a) to hold a commercial fishing license shall register his or her presence on board the commercial fishing vessel in a log maintained by the owner or operator of the vessel according to the requirements of the department.

(c) As used in this section, "person" does not include persons who are less than 16 years of age, a partnership, corporation, or association. Any person, partnership, corporation, or association may pay the fees for a license issued to any person.

(d) This article does not apply to the taking, transporting, or selling of live freshwater fish for bait by the holder of a live freshwater bait fish license issued pursuant to Section 8460.

SEC. 1.1. Section 7887 of the Fish and Game Code is amended to

read:

7887. Every person who owns or operates a vessel in public waters, or an aircraft in airspace above those waters, in connection with fishing operations for profit in this state, or bringing fish into this state, or who, for profit, permits persons to fish therefrom, shall file a registration statement with the department, on a form to be provided by the department.

This section does not apply to any boat which is rented without an operator, unless the boat is powered with an inboard motor, in which case a certificate of registration is required.

SEC. 1.2. Section 7888 of the Fish and Game Code is amended to read:

7888. The statement shall include all information as prescribed by the department.

SEC. 1.3. Section 7890 of the Fish and Game Code, as added by Section 12 of Chapter 1703 of the Statutes of 1990, is amended to read:

7890. (a) Upon payment of a fee of one hundred sixty-five dollars ($165) and filing of the required statement by the owner or operator of the vessel or aircraft, the department shall issue a certificate of registration which is valid for the period April 1 to March 31 of the year following, or, if issued after the beginning of that term, for the remainder thereof. This certificate shall be carried aboard the vessel or aircraft at all times and posted in a conspicuous place.

(b) This section shall become operative on January 1, 1992.

SEC. 2. Section 35062 of the Public Resources Code is amended to read:

35062. (a) The secretary may grant funds appropriated for fishing vessels, safety, survey, and survival equipment to any commercial fisherman, licensed under Section 7850 or 7852 of the Fish and Game Code, who operates or owns a fishing vessel or support aircraft operated in areas off the coast of this state in which oil and gas exploration or development facilities or equipment were in use prior to August 1, 1985. The funds shall be used to extend the vessel's fishing range to reasonable limits by improving vessel, plane, and personnel safety and survival equipment, navigation and communications equipment, and operational practices and equipment, in order to reach areas beyond those impacted by the oil and gas activities. Grants under this subdivision shall be made only for vessels which have had safety surveys completed by certified vessel surveyors or United States Coast Guard inspectors, and shall not exceed five thousand dollars ($5,000) for each vessel or plane for reimbursement for safety and survival surveys and for any recommended modifications and additions resulting from the surveys.

(b) The secretary may also grant funds to individuals and state agencies, contract for services or research, or enter into interagency agreements to address impacts on California's commercial fishing industry from offshore oil and gas activities. Funds expended for this purpose may implement programs to address area, gear, and

technology development; vessel and gear staging and repair space; fishing vessel safety, survey, and survival equipment; sea floor oil and gas debris cleanup; San Pedro purse seine fleet assistance for marketing, fuel conservation, and resource assessment; fisheries marketing assistance; and establishment of a fisheries development corporation.

(c) Procedures for the administration of grants under this chapter shall be adopted by the secretary only after providing adequate opportunity for public review and comment. However, those procedures are not subject to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 3. Section 35063 of the Public Resources Code is amended to read:

35063. This chapter shall remain in effect only until January 1, 1996, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1996, deletes or extends that date.

CHAPTER 559

An act to amend Sections 18554, 18838 and 26255 of, and to amend, repeal, and add Sections 18839 and 26256 of, the Revenue and Taxation Code, relating to taxation, and making an appropriation therefor.

[Approved by Governor October 5, 1991. Filed with Secretary of State October 7, 1991.]

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

SECTION 1. Section 18554 of the Revenue and Taxation Code is amended to read:

18554. (a) The tax, and any interest and penalties thereon, shall be paid to the Franchise Tax Board. Remittances may be in the form of a check, payable to the Franchise Tax Board, during that period and under those regulations as the Franchise Tax Board may prescribe. If a check is not paid by the bank on which it is drawn, the taxpayer tendering the check remains liable for the payment of the tax, and all interest and penalties thereon, as if he or she had not tendered the check.

(b) Notwithstanding Title 1.3 (commencing with Section 1747) of Part 4 of Division 3 of the Civil Code, the Franchise Tax Board may allow remittances to be in the form of a credit account number and an authorization to draw upon a specified credit account, at that time and under those conditions as the Franchise Tax Board may prescribe. Remittances in the form of an authorization to draw upon a specified credit account shall include an amount, not to exceed 2 percent of the balance otherwise due, for purposes of paying the discount rate associated with drawing upon the credit account.

(c) Remittances made pursuant to subdivision (b) may be drawn on an account with a financial institution which agrees to add the discount rate associated with the use of the credit account number to the credit card holder's billing. Remittances drawn as described in this subdivision shall not include an amount for purposes of paying the discount rate associated with drawing upon the credit account.

SEC. 2. Section 18838 of the Revenue and Taxation Code is amended to read:

18838. (a) The Franchise Tax Board may enter into agreement with one or more persons for the purpose of collecting delinquent accounts with respect to amounts assessed or imposed under this part, provided the agreements do not cause the net displacement of civil service employees. The agreement may provide for the rate and manner of payment for the contracted collection services. However, the consideration payable by the Franchise Tax Board under the agreement shall not be included in the amounts to be collected from the tax debtor by the contractor providing collection services.

(b) For purposes of this section, "displacement" includes layoff, demotion, involuntary transfer to a new class, involuntary transfer to a new location requiring a change of residence, and time base reductions. "Displacement" does not include changes in shifts or days off, nor does it include reassignment to any other position within the same class and general location.

SEC. 3. Section 18839 of the Revenue and Taxation Code is amended to read:

18839. (a) The Franchise Tax Board shall determine the total amount collected under Section 18838, and shall notify the Controller of the amount to be transferred to the Delinquent Tax Collection Fund, which is hereby created. In addition, the Franchise Tax Board shall determine the amount of each of the following:

(1) The costs of implementing and administering Section 18838.

(2) The contracting costs incurred under Section 18838.

The Franchise Tax Board shall notify the Controller of these amounts.

(b) The Controller shall transfer these amounts from the Delinquent Tax Collection Fund to the Franchise Tax Board for reimbursement of its implementation and administrative costs and for the contracting costs. The moneys remaining in the Delinquent Tax Collection Fund after disbursements shall be transferred to the Personal Income Tax Fund by the Controller upon notification by the Franchise Tax Board. Notwithstanding Section 13340 of the Government Code, the moneys transferred pursuant to this section are hereby continuously appropriated, without regard to fiscal years.

(c) The funds generated through this section shall not be used in place of funds from other sources which are available for appropriation to the Franchise Tax Board.

(d) This section shall remain in effect only until July 1, 1993, and as of that date is repealed.

SEC. 4. Section 18839 is added to the Revenue and Taxation

Code, to read:

18839. (a) The Franchise Tax Board shall determine the amount of the contracting costs incurred under Section 18838 and notify the Controller of that amount which shall be transferred from the Personal Income Tax Fund to the Delinquent Tax Collection Fund, which is hereby created.

(b) The Controller shall transfer that amount determined pursuant to subdivision (a) from the Delinquent Tax Collection Fund to the Franchise Tax Board for reimbursement of its contracting costs. The moneys remaining in the Delinquent Tax Collection Fund after disbursements shall be transferred to the Personal Income Tax Fund by the Controller upon notification by the Franchise Tax Board. Notwithstanding Section 13340 of the Government Code, the moneys transferred pursuant to this section are hereby continuously appropriated, without regard to fiscal years.

(c) The funds generated through this section shall not be used in place of funds from other sources that are available for appropriation to the Franchise Tax Board.

(d) This section shall become operative on July 1, 1993.

SEC. 5. Section 26255 of the Revenue and Taxation Code is amended to read:

26255. (a) The Franchise Tax Board may enter into agreement with one or more persons for the purpose of collecting delinquent accounts with respect to amounts assessed or imposed under this part, provided the agreements do not cause the net displacement of civil service employees. The agreements may provide for the rate and manner of payment for the contracted collection services. However, the consideration payable by the Franchise Tax Board under the agreement shall not be included in the amounts to be collected from the tax debtor by the contractor providing collection services.

(b) For purposes of this section, "displacement" includes layoff, demotion, involuntary transfer to a new class, involuntary transfer to a new location requiring a change of residence, and time base reductions. "Displacement" does not include changes in shifts or days off, nor does it include reassignment to any other position within the same class and general location.

SEC. 6. Section 26256 of the Revenue and Taxation Code is amended to read:

26256. (a) The Franchise Tax Board shall determine the total amount collected under Section 26255, and shall notify the Controller of the amount to be transferred to the Delinquent Tax Collection Fund, which is created pursuant to Section 18839. In addition, the Franchise Tax Board shall determine the amount of each of the following:

(1) The costs of implementing and administering Section 26255.

(2) The contracting costs incurred under Section 26255.

The Franchise Tax Board shall notify the Controller of these amounts.

(b) The Controller shall transfer these amounts from the Delinquent Tax Collection Fund to the Franchise Tax Board for reimbursement of its implementation and administrative costs and for the contracting costs. The moneys remaining in the Delinquent Tax Collection Fund after disbursements shall be transferred to the Bank and Corporation Tax Fund by the Controller upon notification by the Franchise Tax Board. Notwithstanding Section 13340 of the Government Code, the moneys transferred pursuant to this section are hereby continuously appropriated, without regard to fiscal years.

(c) The funds generated through this section shall not be used in place of funds from other sources which are available for appropriation to the Franchise Tax Board.

(d) This section shall remain in effect only until July 1, 1993, and as of that date is repealed.

SEC. 7. Section 26256 is added to the Revenue and Taxation Code, to read:

26256. (a) The Franchise Tax Board shall determine the contracting costs incurred under Section 26255 and notify the Controller of that amount which shall be transferred from the Bank and Corporation Tax Fund to the Delinquent Tax Collection Fund, which is created pursuant to Section 18839.

(b) The Controller shall transfer that amount determined pursuant to subdivision (a) from the Delinquent Tax Collection Fund to the Franchise Tax Board for reimbursement of its contracting costs. The moneys remaining in the Delinquent Tax Collection Fund after disbursements shall be transferred to the Bank and Corporation Tax Fund by the Controller upon notification by the Franchise Tax Board. Notwithstanding Section 13340 of the Government Code, the moneys transferred pursuant to this section are hereby continuously appropriated, without regard to fiscal years.

(c) The funds generated through this section shall not be used in place of funds from other sources which are available for appropriation to the Franchise Tax Board.

(d) This section shall become operative on July 1, 1993.

CHAPTER 560

An act to amend Sections 14124.88, 14125.2, 14171, 14171.5, and 14172 of, and to add Sections 14100.6, 14100.7, 14107.5, 14170.8, and 14171.6 to, the Welfare and Institutions Code, relating to Medi-Cal.

[Approved by Governor October 5, 1991. Filed with Secretary of State October 7, 1991]

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

SECTION 1. Section 14100.6 is added to the Welfare and Institutions Code, to read:

14100.6. The department, in cooperation with the Controller, shall establish a method of providing to the Controller, periodically, updated information regarding changes in the roster of Medi-Cal providers.

SEC. 2. Section 14100.7 is added to the Welfare and Institutions Code, to read:

14100.7. (a) Any Medi-Cal provider of durable medical equipment or incontinence supplies shall provide, to the department, a bond, or other security satisfactory to the department, of not less than twenty-five thousand dollars ($25,000), pursuant to regulations adopted by the department.

(b) (1) After three years of continuous operation as a provider of durable medical equipment or incontinence supplies, a Medi-Cal provider may apply to the department for an exemption from the requirements of subdivision (a).

(2) The department shall adopt regulations establishing conditions for the approval or denial of applications for exemption pursuant to paragraph (1).

(c) For purposes of this section "durable medical equipment" means equipment prescribed by a licensed practitioner to meet medical equipment needs of the patient, and which is eligible for reimbursement pursuant to this chapter.

(d) This section does not apply to individuals who are licensed pursuant to Division 2 (commencing with Section 500) of the Business and Professions Code.

SEC. 3. Section 14107.5 is added to the Welfare and Institutions Code, to read:

14107.5. (a) The department may, pursuant to regulations adopted pursuant to subdivision (b), rescind the privileges of a provider of durable medical equipment or incontinence supplies who fails to satisfy the requirements of this section to bill and receive payment for services provided under this chapter.

(b) The department shall adopt regulations to define the specific causes for which the authority of a Medi-Cal provider of durable medical equipment or incontinence supplies to bill and receive payment for services provided under this chapter may be rescinded for violation of this section.

(c) The department shall not rescind the authority of a Medi-Cal provider of durable medical equipment or incontinence supplies to bill and receive payment under this chapter without a prior hearing, unless any of the following conditions exist:

(1) The provider has failed to provide material information to the department pursuant to Section 14125.8.

(2) The provider has knowingly furnished false information on any application for provider enrollment.

(3) The provider has knowingly filed false claims for reimbursement under this chapter.

SEC. 4. Section 14124.88 of the Welfare and Institutions Code is amended to read:

14124.88. (a) Subsequent to the expiration of the pilot project contract, the department, in its reasonable discretion, may execute a separate, additional agreement for the discovery and recovery of amounts which may be subject to claim pursuant to this article, subject to Sections 14124.81 to 14124.87, inclusive.

(b) The department, if it receives a competitive qualified offer of such services within the criteria set forth in Sections 14124.80 through 14124.87, shall separately contract for discovery and recovery of workers' compensation claims with one contract to cover areas of northern California and one to cover areas of southern California.

(c) (1) Priority and inclusion of claims shall be as set forth in subdivision (b) of Section 14124.82 and additionally shall include any matter on file with the Workers' Compensation Appeals Board for a period of more than 12 months unless the department has previously identified these claims and has filed the appropriate lien or liens.

(2) The contract may include, or may be subsequently amended to include, any or all previously identified claims and any other potential lien claims, identified or not, if the department determines that it will not otherwise be able to effectively process recovery. This paragraph shall cease to be operative on January 1, 1995.

(d) There shall be no cost to the contractor for claim detail reports provided by the fiscal intermediary. In all cases of workers' compensation appeals, payment shall be made directly to the state and a contractor shall not handle or have access to any moneys owing the state. In these cases a bond required by the state for collection agencies shall be sufficient. Contractor's files shall be subject to audit, pursuant to the contract, but shall remain the property of the contractor. At the request of the department, the contractor shall provide copies of any claims related to a particular recovery.

(e) The contract shall provide that the contractor, with the permission of the Attorney General, may appeal decisions of the Workers' Compensation Appeals Board.

SEC. 4.5. Section 14125.2 of the Welfare and Institutions Code is amended to read:

14125.2. (a) (1) To qualify for Medi-Cal coverage a product shall be in general retail distribution, sold to the general public, and comply with any standards for products established by law or regulation. No product that is manufactured, distributed, or otherwise promoted for the exclusive use of beneficiaries of the Medi-Cal program shall be a Medi-Cal benefit.

(2) For purposes of this section, "product" means any product which is in general retail distribution.

(3) For purposes of this subdivision, "general retail distribution" means either of the following:

(A) The product is included in a listing of approved products for purchase either by the federal or state government.

(B) The product is on display and available for purchase by customers for private payment at retail outlets which are open to the general public.

(b) In order to qualify as a Medi-Cal provider of incontinence medical supplies, a dealer shall have an established place of business that is readily identifiable as a medical supply business, be open to the general public at regularly established business hours, have incontinence supplies in stock on the premises or in a warehouse under the provider's direct control, and meet all local laws and ordinances regarding business licensing and operations. The department shall establish additional rules and regulations for participation in the Medi-Cal program as it deems necessary to ensure adequate safeguards to the integrity of the Medi-Cal program.

SEC. 5. Section 14170.8 is added to the Welfare and Institutions Code, to read:

14170.8. (a) Notwithstanding any other provision of law, principal labelers, and any other primary suppliers of goods and services to incontinence supplies providers, as defined in Section 14125.1, shall maintain accounting records to support the cost of goods and services provided to those incontinence supplies providers.

(b) Accounting records maintained pursuant to subdivision (a) shall be subject to audit or examination by the department or the Controller to determine the reasonableness of costs claimed by the providers.

SEC. 6. Section 14171 of the Welfare and Institutions Code is amended to read:

14171. (a) The director shall establish administrative appeal processes to review grievances or complaints arising from the findings of an audit or examination made pursuant to Sections 10722 and 14170.

(b) Different administrative appeal processes may be established by the director for grievances or complaints arising from the determinations of a tentative or final settlement based on audit or examination findings made by or on behalf of the department pursuant to Sections 10722 and 14170, except that consistent with existing practice, no administrative appeal shall be available for tentative settlement of cost reports.

(c) The administrative appeal process established by the director for final settlements, including, in the case of hospitals, the application of Sections 51536, 51537, and 51539 of Title 22 of the California Code of Regulations shall include the procedural requirements of Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code. The impartial hearing shall be conducted by an administrative law judge appointed by the director. The director may subcontract with the Office of Administrative Hearings to conduct hearings on cases involving complicated issues of fact or law, or to reduce the backlog of cases.

(d) The administrative appeal process established by the director for tentative settlements, including, in the case of hospitals, the application of Sections 51536, 51537, and 51539 of Title 22 of the

California Code of Regulations shall be an informal process which, however, guarantees a provider the right to present any grievance or complaint to the department in writing. Any subsequent hearings shall be conducted in an informal manner and shall be held at the discretion of the department.

(e) The time limitations in subdivisions (f) and (g) for the impartial hearing and the final decisions are mandatory. If the department fails to conduct the hearing or to adopt a final decision thereon within the time limitations provided in subdivisions (f) and (g), the amount of any overpayment which is ultimately determined by the department to be due shall be reduced by 10 percent for each 30-day period, or portion thereof, that the hearing or the decision, or both, are delayed beyond the time limitations provided in subdivisions (f) and (g). However, the time period shall be extended by either of the following:

(1) Delay caused by a provider.

(2) Extensions of time granted a provider at its sole request or at the joint request of the provider and the department.

(f) (1) Notwithstanding subdivision (c), the administrative appeal process established by the director shall commence with an informal conference with the provider, a representative of the department, and the administrative law judge. The informal conference shall be conducted no later than 90 days after the filing of a timely and specific statement of disputed issues by the provider. The administrative law judge, when appropriate, may assign the administrative appeal to an informal level of review where efforts could be made to resolve facts and issues in dispute in a fair and equitable manner, subject to the requirements of state and federal law. The review conducted at this informal level shall be completed no later than 180 days after the filing of a timely and specific statement of disputed issues by the provider.

(2) Nothing in this subdivision shall prohibit the provider from presenting any unresolved grievances or complaints at an impartial hearing pursuant to subdivision (c). The impartial hearing shall be conducted no later than 300 days after the filing of a timely and specific statement of disputed issues by the provider. For noninstitutional providers, a proposed decision shall be prepared and transmitted to the director and the parties within 60 days after the closure of the record of the impartial hearing. For institutional providers, a proposed decision shall be prepared and transmitted to the director and the parties within 180 days after the closure of the record of the impartial hearing.

(3) Subject to subdivision (g), a final decision in a noninstitutional provider appeal shall be adopted within 180 days after the closure of the record of the impartial hearing, and a final decision in an institutional provider appeal shall be adopted within 300 days after the closure of the record of the impartial hearing.

(g) In the event the director intends to modify a proposed decision, on or before the 180th day following the closure of the

record of the hearing for noninstitutional providers or the 300th day following the closure of the record of the hearing for institutional providers, the director shall provide written notice of his or her intention to the parties and shall afford the parties an opportunity to present oral and written argument. Following this notice, on or before the 240th day following the closure of the record of the hearing for noninstitutional providers or the 420th day following closure of the record of the hearing for institutional providers, or within that additional time period as is granted pursuant to the sole request of a provider or at the joint request of the provider and the department, the director shall issue a modified decision.

(h) In the event recovery of a disallowed payment has been made by the department, a provider who prevails in an appeal of a disallowed payment shall be entitled to interest at the rate equal to the monthly average received on investments in the Surplus Money Investment Fund, commencing on the date the appeal is formally accepted by the department or the date payment is received by the department, whichever is later.

(i) Except as provided in subdivision (j), commencing 60 days after issuance of the first statement of account status or demand for repayment resulting from an audit or examination made pursuant to Sections 10722 and 14170, interest at the rate equal to the monthly average received on investments in the Surplus Money Investment Fund during the month the first statement of account status or demand for repayment was issued shall be assessed against any unrecovered overpayment due to the department.

(j) (1) Commencing on the day following the last day of the period covered by an audit or examination made pursuant to Sections 10722 and 14170, interest at the rate established under Section 19269 of the Revenue and Taxation Code which is in effect on the date of the commencement of that interest shall be assessed against any unrecovered overpayment due to the department by providers of durable medical equipment or incontinence supplies.

(2) Interest which accrues under this subdivision for recoupment of an overpayment based on the lack of medical necessity for a previously approved claim shall commence to accrue on the date of written demand by the department.

(k) The final decision of the director shall be reviewable in accordance with Section 1094.5 of the Code of Civil Procedure within six months of the issuance of the director's final decision.

SEC. 7. Section 14171.5 of the Welfare and Institutions Code is amended to read:

14171.5. Any institutional provider of health care services which obtained reimbursement under this chapter to which it is not entitled shall be subject to the following interest charges or penalties:

(a) When it is established upon audit that the provider has claimed payments under this chapter to which it is not entitled, the provider shall pay, in addition to the amount improperly received, interest at the rate specified by subdivision (i) of Section 14171.

(b) When it is established upon audit that the provider claimed payments related to services or costs which the department had previously notified the provider in an Audit Report that such costs or services were not reimbursable, the provider shall pay in addition to the amount improperly claimed, a penalty of 10 percent of the amount improperly claimed after this notice, plus the cost of the audit. In addition, interest shall be assessed at the rate specified in subdivision (i) of Section 14171. Providers who wish to preserve appeal rights or to challenge the department's positions regarding appeal issues, may claim such cost or services and not be reimbursed therefor, provided that they are identified and presented separately on the cost report.

(c) When it is established that the provider fraudulently claimed and received payments under this chapter, the provider shall pay a penalty of 25 percent of the amount improperly claimed, plus the cost of the audit, in addition to the amount thereof. In addition, interest will be assessed at the rate specified by subdivision (i) of Section 14171. A fraudulent claim is a claim upon which the provider has been convicted of fraud upon the program. Nothing in this section shall prevent the imposition of any other civil or criminal penalties to which the provider may be liable.

(d) Appeals to action taken in subdivisions (a), (b), and (c) of Section 14171.5 above are subject to the administrative appeals process provided by Section 14171.

(e) Penalties paid by providers under subdivisions (a), (b), and (c) of Section 14171.5 are not reimbursable by the program.

(f) As used in this section, "the cost of the audit" includes actual hourly wages, travel, and incidental expenses at rates allowable by State Board of Control rules, and applicable overhead costs.

SEC. 8. Section 14171.6 is added to the Welfare and Institutions Code, to read:

14171.6. (a) Any provider of durable medical equipment or incontinence supplies that obtains reimbursement under this chapter to which it is not entitled shall be subject to interest charges or penalties as specified in this section.

(b) When it is established upon audit that the provider has claimed payments under this chapter to which it is not entitled, the provider shall pay, in addition to the amount improperly received, interest at the rate specified by subdivision (j) of Section 14171.

(c) (1) When it is established upon audit that the provider claimed payments related to services or costs which the department had previously notified the provider in an Audit Report that the costs or services were not reimbursable, the provider shall pay, in addition to the amount improperly claimed, a penalty of 10 percent of the amount improperly claimed after receipt of the notice, plus the cost of the audit.

(2) In addition to the penalty and costs specified by paragraph (1), interest shall be assessed at the rate specified in subdivision (j) of Section 14171.

(3) Providers that wish to preserve appeal rights or to challenge the department's positions regarding appeal issues, may claim the costs or services and not be reimbursed therefor, provided that they are identified and presented separately on the cost report.

(d) (1) When it is established that the provider fraudulently claimed and received payments under this chapter, the provider shall pay, in addition to the amount improperly claimed, a penalty of 300 percent of the amount improperly claimed, plus the cost of the audit.

(2) In addition to the penalty and costs specified by paragraph (1), interest shall be assessed at the rate specified by subdivision (j) of Section 14171.

(3) For purposes of this subdivision, a fraudulent claim is a claim upon which the provider has been convicted of fraud upon the Medi-Cal program.

(e) Nothing in this section shall prevent the imposition of any other civil or criminal penalties to which the provider may be liable.

(f) Any appeal to any action taken pursuant to subdivision (b), (c), or (d) is subject to the administrative appeals process provided by Section 14171.

(g) As used in this section, "cost of the audit" includes actual hourly wages, travel, and incidental expenses at rates allowable by rules adopted by the State Board of Control, and applicable overhead costs which are incurred by employees of the state in administering this chapter with respect to the performance of audits.

SEC. 9. Section 14172 of the Welfare and Institutions Code is amended to read:

14172. (a) Except as provided in subdivision (b), if any amount is due and payable and unpaid as the result of an overpayment to a provider of health care services, durable medical equipment, or incontinence supplies identified through an audit or examination conducted by or on behalf of the director, and the findings of the audit or examination are completed and no appeal is taken or the director has issued a final decision on the appeal pursuant to Section 14171, and 90 days has elapsed from the completion of that audit or examination or issuance of that final decision on appeal, the director may, not later than three years after the payment became due and owing, file in the office of the County Clerk of Sacramento County, and with the county clerk of the county in which the provider has his principal place of business, a certificate containing the following:

(1) Interest, as prescribed by Section 14171.

(2) A statement that the director has complied with this article prior to the filing of the certificate.

(3) A request that judgment be entered against the provider in the amount set forth in the certificate.

The county clerk immediately upon the filing of the certificate shall enter a judgment for the State of California against the provider in the amount set forth in the certificate. The judgment may be filed by the county clerk in a looseleaf book entitled "Health Care

Overpayment Recovery Judgments."

(b) If the provider seeks judicial review of the final decision of the director pursuant to subdivision (k) of Section 14171 and notice of that action is properly served on the director within 90 days of the issuance of the final decision of the director, the director shall not file any certificate as provided in subdivision (a).

If the provider does not seek judicial review of the final decision of the director pursuant to subdivision (k) of Section 14171 and does not properly serve notice within 90 days from the date of the final decision of the director, the director may file the certificate provided in subdivision (a). If the provider seeks judicial review of the final decision of the director more than 90 days from the date of the decision in accordance with subdivision (k) of Section 14171, the director shall within 10 days after receiving notice of that action release any lien imposed pursuant to this article and any judgment entered is for all purposes null and void.

SEC. 10. The State Department of Health Services may adopt emergency regulations pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code to implement this act. The adoption of those regulations shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health, or safety. Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, emergency regulations adopted by the department in order to implement this act shall not be subject to the review and approval of the Office of Administrative Law. These regulations shall become effective immediately upon filing with the Secretary of State.

SEC. 11. The State Department of Health Services shall submit a report to the Legislature, on or before January 1, 1994, delineating the status of the contracting out of discovery and recovery of claims under paragraph (2) of subdivision (c) of Section 14124.88 of the Welfare and Institutions Code.

CHAPTER 561

An act to amend Sections 13101 and 13103 of the Fish and Game Code, relating to fish and wildlife.

[Approved by Governor October 5, 1991. Filed with Secretary of State October 7, 1991.]

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

SECTION 1. Section 13101 of the Fish and Game Code is amended to read:

13101. (a) The board of supervisors of any county may enter into a written agreement with the board of supervisors of one or more

counties for the expenditure of any funds deposited in its fish and wildlife propagation fund pursuant to Section 13100 for any purpose authorized by Section 13103 in either, or any, of the counties for the joint benefit of both, or all, of the counties as the judgment of the boards of supervisors may direct. The purchase of real property necessary for that purpose is lawful and title thereto shall be taken in the joint names of each county which contributes funds therefor. The property may be deeded to the state upon the express condition that it shall be employed for the purposes of this chapter within the counties.

(b) The board of supervisors of one or more counties may enter into a written agreement with the department for the expenditure of any funds deposited in its fish and wildlife propagation fund pursuant to Section 13100 for any purpose authorized by Section 13103.

SEC. 2. Section 13103 of the Fish and Game Code is amended to read:

13103. Expenditures from the fish and wildlife propagation fund of any county may be made only for the following purposes:

(a) Public education relating to the scientific principles of fish and wildlife conservation, consisting of supervised formal instruction carried out pursuant to a planned curriculum and aids to education such as literature, audio and video recordings, training models, and nature study facilities.

(b) Temporary emergency treatment and care of injured or orphaned wildlife.

(c) Temporary treatment and care of wildlife confiscated by the department as evidence.

(d) Breeding, raising, purchasing, or releasing fish or wildlife which are to be released upon approval of the department pursuant to Sections 6400 and 6401 onto land or into waters of local, state, or federal agencies or onto land or into waters open to the public.

(e) Improvement of fish and wildlife habitat, including, but not limited to, construction of fish screens, weirs, and ladders; drainage or other watershed improvements; gravel and rock removal or placement; construction of irrigation and water distribution systems; earthwork and grading; fencing; planting trees and other vegetation management; and removal of barriers to the migration of fish and wildlife.

(f) Construction, maintenance, and operation of public hatchery facilities.

(g) Purchase and maintain materials, supplies, or equipment for either the department's ownership and use or the department's use in the normal performance of the department's responsibilities.

(h) Predator control actions for the benefit of fish or wildlife following certification in writing by the department that the proposed actions will significantly benefit a particular wildlife species.

(i) Scientific fish and wildlife research conducted by institutions

of higher learning, qualified researchers, or governmental agencies, if approved by the department.

(j) Reasonable administrative costs, excluding the costs of audits required by Section 13104, for secretarial service, travel, and postage by the county fish and wildlife commission when authorized by the county board of supervisors. For purposes of this subdivision, "reasonable cost" means an amount which does not exceed 3 percent of the average amount received by the fund during the previous three-year period, or three thousand dollars ($3,000) annually, whichever is greater, excluding any funds carried over from a previous fiscal year.

(k) Contributions to a secret witness program for the purpose of facilitating enforcement of this code and regulations adopted pursuant to this code.

(*l*) Costs incurred by the district attorney or city attorney in investigating and prosecuting civil and criminal actions for violations of this code, as approved by the department.

(m) Other expenditures, approved by the department, for the purpose of protecting, conserving, propagating, and preserving fish and wildlife.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 562

An act to amend Sections 26.1, 29.3, and 45 of the Castaic Lake Water Agency Law (Chapter 28 of the Statutes of 1962, First Extraordinary Session), relating to the Castaic Lake Water Agency.

[Approved by Governor October 5, 1991. Filed with Secretary of State October 7, 1991.]

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

SECTION 1. Section 26.1 of the Castaic Lake Water Agency Law (Chapter 28 of the Statutes of 1962, First Extraordinary Session) is amended to read:

Sec. 26.1. (a) In addition to the other powers provided in this act, the agency may establish and impose a charge referred to as a facility capacity fee, and which is in the nature of a connection fee, for the

right to make a new retail connection to the water distribution system of any retail water distributor within the agency that obtains all, or any portion, of its water supplies from the agency. The necessity for the fee, and the amounts thereof, shall be determined, established, imposed, collected, and used in the manner provided in this section.

(b) If the board of directors determines that its existing water importation, transportation, and delivery facilities and other related works, property, and improvements are not adequate for the purpose of receiving, importing, transporting, and delivering additional needed quantities of water available from the State Water Resources Development System or from other sources, the board of directors may adopt and carry out a plan for any of the following purposes:

(1) To obtain additional facilities, works, property, improvements, and supplies of water.

(2) To increase or enlarge, as may be appropriate, its existing capacity and facilities for obtaining, importing, transporting, and delivering additional quantity of water to retail water distributors within the agency which are in need of additional water supplies.

(3) To finance or reimburse the agency for advancing the cost of acquiring facilities, works, property, improvements, and supplies of water and to allocate that cost among lands within water service areas of the agency which, by reason of new development or new construction thereon, will need new water service and will be benefited by making the additional supplies of agency water available for purchase by the retail water distributors that will supply those lands with water.

(c) (1) Prior to adopting any plans pursuant to subdivision (b), the board of directors shall hold at least one public hearing, at which oral or written presentations may be made, as part of a regularly scheduled meeting to establish water service areas within the agency.

(2) Notwithstanding any other notice requirements of this act, notice of the time and place of the hearing and meeting, including a general explanation of the matters to be considered, and a statement that the data required by this subdivision is available, shall be mailed at least 14 days prior to the hearing to any interested party who files a written request with the agency for mailed notice of the hearing on those plans and on allocation of the costs thereof. Any written request for that mailed notice shall be valid only for one year from the date on which it is filed with the agency unless a renewal request is filed. Renewal requests for the mailed notices shall be filed on or before April 1st of each year. The board of directors may establish a reasonable annual charge for sending the notices based on the agency's estimated cost of providing the service.

(3) At least 10 days prior to the hearing, the agency shall make available to the public data indicating the cost, or estimated cost, to acquire, construct, and provide the water importation,

transportation, and delivery facilities and other works, property, and improvements necessary to obtain and provide the additional water to those retail water distributors who will serve water to the lands on which the new developments and new construction will be located, and the proposed method and basis for allocating the costs as among those lands.

(d) (1) Following the public hearing or hearings, the board of directors shall make both of the following determinations:

(A) The extent of the need for the additional property and supplies of water to be supplied by the agency.

(B) Whether existing facilities and other works and improvements of the agency are adequate to import, receive, transport, and deliver those additional quantities of water.

(2) If the board of directors determines that there is a need or that the agency's existing facilities, works, property, and improvements are inadequate to serve that water, or both, the board of directors shall adopt the plan or plans specified in subdivision (b).

(e) In making its determinations as to how to allocate the costs of the plan or plans within water service areas of the agency, the board of directors shall determine the amount of the facility capacity fee to be imposed for and upon each new connection to the delivery facilities of the retail water distributors that will supply those lands with imported or local water. The facility capacity fee shall be fixed and determined pursuant to a method and basis whereby the fee is as nearly as reasonably practicable an amount proportionate to the benefit to the land, including consideration of the volume of water to be delivered to the new retail connection.

(f) The board of directors may contract with the counties, or cities on or after January 1, 1992, in which the agency is located for the collection of the facility capacity fee along with building permit fees or other fees related to the improvement of property, or may contract for collection of the facility capacity fee by the retail water distributor.

(g) The proceeds of the facility capacity fee imposed and collected pursuant to this section shall be used exclusively by the board of directors for the annual capital budget of the agency, as described in Section 29.1, for purposes authorized by this section as specified in the plans adopted pursuant to subdivisions (b), (d), and (e).

(h) Any action taken by the board of directors pursuant to this section shall be taken only by resolution.

(i) Any judicial action or proceeding to attack, review, set aside, void, or annul any resolution imposing a facility capacity charge of the agency, or a resolution modifying or amending an existing charge imposed by the agency, shall be commenced within 120 days of the effective date of the resolution. Any action or proceeding shall be brought pursuant to Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure.

SEC. 2. Section 29.3 of the Castaic Lake Water Agency Law

(Chapter 28 of the Statutes of 1962, First Extraordinary Session) is amended to read:

Sec. 29.3. The board of directors shall annually hold the public hearing concerning its proposed water service areas only after not less than two weeks' notice of the hearing has been given by all of the following means:

(a) Publication of and notice once a week for two weeks, the publication to be seven days apart, in a newspaper of general circulation within the agency published in the county where the agency has its principal office, with the first notice to be published not less than 15 calendar days in advance of the hearing.

(b) Posting of the notice not less than 15 calendar days in advance of the hearing in one public place in each of the proposed water service areas.

(c) (1) Mailing of the notice by first-class mail, postage prepaid, not less than 21 calendar days in advance of the hearing, to each person or entity to whom land is assessed, as shown on the last equalized assessment roll, or the records of the county assessor or tax collector which contain more recent information than the assessment roll, of any county whose territory is within a proposed water service area, at the address shown on the assessment roll, or the records of the county assessor or tax collector which contain more recent information than the assessment roll, and also to each purveyor. Mailing of the notice to the person or entity to whom land is assessed is not required, however, with respect to any public hearing where the board of directors proposes in the resolution required by Section 29.2 to continue without change any water service area previously established.

(2) For the purpose of mailed notice requirements only, a water service area shall be deemed continued without change as previously established if the water service area is proposed to retain over 95 percent of its existing territory, with only such other territories as may be proposed to be included with or excluded from the water service area being subject to the mailed notice requirement.

(d) Notice which is published shall include the text of the agency resolution concerning water service areas. The published notice need not, however, include any exhibit to the resolution which sets forth or describes the legal boundary descriptions of water service areas if the resolution and published notice contain a map exhibit determined by the board of directors to reasonably notify the public of the location of the proposed water service areas. All other notices need only include (1) the date, time, and location for the public hearing, and (2) the charges, fees, assessments, and tax rates proposed to affect the specific property proposed to be included within a specific water service area.

(e) Except as otherwise provided in this act, no additional notice need be given on any adjournment or continuation of the public hearing.

SEC. 3. Section 45 of the Castaic Lake Water Agency Law

(Chapter 28 of the Statutes of 1962, First Extraordinary Session) is amended to read:

Sec. 45. (a) Nothing in this act shall be construed as repealing or amending the provisions of any other act relating to water or the supply of water to, or the acquisition thereof, by cities within this state.

(b) "City," as used in this act, means and includes any city, whether organized or functioning under a freeholders' charter or under the provisions of general law.

(c) "Agency" means, unless otherwise expressed or used, the Castaic Lake Water Agency formed under this act.

(d) "Board," "governing body," and "Board of Directors" mean the board of directors of the Castaic Lake Water Agency.

(e) "Voter," as used in this act, means voter as defined in Section 18 of the Elections Code.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 563

An act to amend Section 14105.33 of, and to add Section 14133.37 to, the Welfare and Institutions Code, relating to Medi-Cal.

[Approved by Governor October 5, 1991 Filed with Secretary of State October 7, 1991]

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

SECTION 1. Section 14105.33 of the Welfare and Institutions Code is amended to read:

14105.33. (a) The department may enter into contracts with manufacturers of single-source and multiple-source drugs, on a bid or nonbid basis, for drugs from each major therapeutic category, and shall maintain a list of those drugs for which contracts have been executed.

(b) (1) Contracts executed pursuant to this section shall be for the manufacturer's best price, as defined in Section 14105.31, which shall be specified in the contract, and subject to agreed upon price escalators, as defined in that section. In no event shall the department require a manufacturer to provide a price lower than its lowest price to any class of trade, organization, or entity. The contracts shall provide for an equalization payment amount, as

defined in Section 14105.31, to be remitted to the department quarterly. The department shall submit an invoice to each manufacturer for the equalization payment amount, based on utilization data from the department's prescription drug paid claims tapes.

(2) The department shall provide for an annual audit of utilization data used to calculate the equalization amount to verify the accuracy of that data. The findings of the audit shall be documented in a written audit report to be made available to manufacturers within 90 days of receipt of the report from the auditor. Any manufacturer may receive a copy of the audit report upon written request. Contracts between the department and manufacturers shall provide for any equalization payment adjustments determined necessary pursuant to an audit.

(c) In order that Medi-Cal beneficiaries may have access to a comprehensive range of therapeutic agents, the department shall ensure that there is representation on the list of contract drugs in all major therapeutic categories. Except as provided in subdivision (a) of Section 14105.35, the department shall not be required to contract with all manufacturers who negotiate for a contract in a particular category. The department shall ensure that there is sufficient representation of single-source and multiple-source drugs, as appropriate, in each major therapeutic category.

(d) (1) The department shall select the therapeutic categories to be included on the list of contract drugs, and the order in which it seeks contracts for those categories. The department may establish different contracting schedules for single-source and multiple-source drugs within a given therapeutic category.

(2) The department shall make every attempt to complete the initial contracting process for each major therapeutic category by January 1, 1993.

(e) In order to achieve maximum cost savings, the Legislature declares that an expedited process for contracts under this section is necessary. Therefore, contracts entered into on a nonbid basis shall be exempt from Chapter 2 (commencing with Section 10290) of Part 2 of Division 2 of the Public Contract Code.

(f) Contracts executed pursuant to this section shall be confidential and shall be exempt from disclosure under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code).

(g) The department shall provide individual notice to Medi-Cal beneficiaries at least 60 calendar days prior to the effective date of the deletion or suspension of any drug from the list of contract drugs. The notice shall include a description of the beneficiary's right to a fair hearing and shall encourage the beneficiary to consult a physician to determine if an appropriate substitute medication is available from Medi-Cal.

(h) This section shall remain in effect only until January 1, 1993, and as of that date is repealed, unless a later enacted statute, which

is enacted before January 1, 1993, deletes or extends that date.

SEC. 2. Section 14133.37 is added to the Welfare and Institutions Code, to read:

14133.37. For drugs covered under this chapter requiring prior authorization, the department shall ensure the timely and efficient processing of authorization requests by doing all of the following:

(a) Providing a response by telephone or other means of telecommunication within 24 hours of the receipt of an authorization request.

(b) To the extent permitted by federal law, providing for the dispensing of at least a 72-hour supply of a covered drug in an emergency situation, as defined by federal regulation.

CHAPTER 564

An act to amend Section 798.61 of the Civil Code, and to add Section 5903 to the Vehicle Code, relating to mobilehomes.

[Approved by Governor October 5, 1991. Filed with Secretary of State October 7, 1991.]

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

SECTION 1. Section 798.61 of the Civil Code is amended to read:

798.61. (a) (1) As used in this section, "abandoned mobilehome" means a mobilehome about which all of the following are true:

(A) It is located in a mobilehome park on a site for which no rent has been paid to the management for the preceding 60 days.

(B) It is unoccupied.

(C) A reasonable person would believe it to be abandoned.

(2) For purposes of this section:

(A) "Mobilehome" shall include a trailer coach, as defined in Section 635 of the Vehicle Code, or a recreational vehicle, as defined in Section 18010 of the Health and Safety Code, if the trailer coach or recreational vehicle also satisfies the requirements of paragraph (1), including being located on any site within a mobilehome park, even if the site is in a separate designated section pursuant to Section 18215 of the Health and Safety Code.

(B) "Abandoned mobilehome" shall include a mobilehome which is uninhabitable because of its total or partial destruction which cannot be rehabilitated, if the mobilehome also satisfies the requirements of paragraph (1).

(b) After determining a mobilehome in a mobilehome park to be an abandoned mobilehome, the management shall post a notice of belief of abandonment on the mobilehome for not less than 30 days, and shall deposit copies of the notice in the United States mail, postage prepaid, addressed to the homeowner at the last known

address and to any known registered owner, if different from the homeowner, and to any known holder of a security interest in the abandoned mobilehome. This notice shall be mailed by registered or certified mail with a return receipt requested.

(c) Thirty or more days following posting pursuant to subdivision (b), the management may file a petition in the municipal or justice court for the judicial district in which the mobilehome park is located for a judicial declaration of abandonment of the mobilehome. Copies of the petition shall be served upon the homeowner, any known registered owner, and any known person having a lien or security interest of record in the mobilehome by posting a copy on the mobilehome and mailing copies to those persons at their last known addresses by registered mail with a return receipt requested in the United States mail, postage prepaid.

(d) (1) Hearing on the petition shall be given precedence over other matters on the court's calendar.

(2) If, at the hearing, the petitioner shows by a preponderance of the evidence that the criteria for an abandoned mobilehome has been satisfied and no party establishes an interest therein at the hearing, the court shall enter a judgment of abandonment, determine the amount of charges to which the petitioner is entitled, and award attorney's fees and costs to the petitioner.

(3) A default may be entered by the court clerk upon request of the petitioner, and a default judgment shall be thereupon entered, if no responsive pleading is filed within 15 days after service of the petition by mail.

(e) (1) Within 10 days following a judgment of abandonment, the management shall enter the abandoned mobilehome and complete an inventory of the contents and submit the inventory to the court.

(2) During this period the management shall post and mail notice of intent to sell the abandoned mobilehome and its contents under this section, and announcing the date of sale, in the same manner as provided for the notice of determination of abandonment under subdivision (b).

(3) At any time prior to sale of a mobilehome under this section, any person having a right to possession of the mobilehome may recover and remove it from the premises upon payment to the management of all rent or other charges due, including reasonable costs of storage and other costs awarded by the court. Upon receipt of this payment and removal of the mobilehome from the premises pursuant to this paragraph, the management shall immediately file an acknowledgment of satisfaction of judgment pursuant to Section 724.030 of the Code of Civil Procedure.

(f) Following the judgment of abandonment, but not less than 10 days following the notice of sale specified in subdivision (e), the management may conduct a public sale of the abandoned mobilehome and its contents. The management may bid at the sale and shall have the right to offset its bids to the extent of the total amount due it under this section. The proceeds of the sale shall be

retained by the management, but any unclaimed amount thus retained over and above the amount to which the management is entitled under this section shall be deemed abandoned property and shall be paid into the treasury of the county in which the sale took place within 30 days of the date of the sale. The former homeowner or any other owner may claim any or all of that unclaimed amount within one year from the date of payment to the county by making application to the county treasurer or other official designated by the county. If the county pays any or all of that unclaimed amount to a claimant, neither the county nor any officer or employee of the county is liable to any other claimant as to the amount paid.

(g) Within 30 days of the date of the sale, the management shall submit to the court an accounting of the moneys received from the sale and the disposition of the money and the items contained in the inventory submitted to the court pursuant to subdivision (e).

(h) The management shall provide the purchaser at the sale with a copy of the judgment of abandonment and evidence of the sale, as shall be specified by the State Department of Housing and Community Development or the Department of Motor Vehicles, which shall register title in the abandoned mobilehome to the purchaser upon presentation thereof. The sale shall pass title to the purchaser free of any prior interest, including any security interest or lien, except the lien provided for in Section 18116.1 of the Health and Safety Code, in the abandoned mobilehome.

SEC. 2. Section 5903 is added to the Vehicle Code, to read:

5903. When the department receives a copy of the judgment of abandonment and evidence of sale as specified in Section 798.61 of the Civil Code, the department shall transfer the registration of the trailer coach or recreational vehicle which has been deemed abandoned pursuant to that section, or reregister the trailer coach or vehicle under a new registration number, and issue a new certificate of ownership and registration card to the person or persons presenting the copy of the judgment of abandonment and evidence of sale to the department.

CHAPTER 565

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

[Approved by Governor October 5, 1991. Filed with Secretary of State October 7, 1991.]

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

SECTION 1. (a) The Department of Insurance shall conduct a study on the amount of personal automobile insurance written in California by nonadmitted insurers, commonly known as surplus

lines carriers.

(b) The study shall include, but need not be limited to, the following:

(1) The total number of policies written annually.

(2) The total premium written annually.

(3) Whether or not these policies comply with the requirements of Section 1763 of the Insurance Code.

(4) To what extent, if any, California Code of Regulations, Title 10, Section 2173, has impacted placement of any automobile bodily injury, property damage, liability, or medical payment insurance with nonadmitted insurers.

(c) The Insurance Commissioner may, as he or she deems appropriate, include recommendations on methods for increasing compliance of surplus lines personal automobile policies with the requirements of Section 1763 of the Insurance Code.

(d) The report shall be made to the Chairpersons of the Assembly Committee on Insurance and the Senate Committee on Insurance, Claims, and Corporations, no later than July 1, 1992.

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

Personal lines automobile insurance is being offered in California in satisfaction of the financial responsibility laws of the state. In order to assess the impact of this insurance at the earliest possible date, this act must take effect immediately.

CHAPTER 566

An act to amend Sections 5502, 5510, 5537.1, 5550.1, 5565, 5566, 5566.2, 5600.2, 5601, 5602, 5603, 5610, 5610.3, 5610.4, 5610.5, 5610.6, and 5610.7 of, and to repeal and add Section 5501 of, the Business and Professions Code, and to amend Section 13401 of the Corporations Code, relating to architecture.

[Approved by Governor October 5, 1991. Filed with Secretary of State October 7, 1991.]

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

SECTION 1. Section 5501 of the Business and Professions Code is repealed.

SEC. 2. Section 5501 is added to the Business and Professions Code, to read:

5501. This chapter constitutes the chapter on professional architects. It shall be known and may be cited as the Architects Practice Act.

SEC. 3. Section 5502 of the Business and Professions Code is

amended to read:

5502. As used in this chapter, board refers to the California Board of Architectural Examiners.

SEC. 4. Section 5510 of the Business and Professions Code is amended to read:

5510. There is in the Department of Consumer Affairs a California Board of Architectural Examiners which consists of 10 members.

SEC. 5. Section 5537.1 of the Business and Professions Code is amended to read:

5537.1. A structural engineer, defined as a registered civil engineer who has been authorized to use the title structural engineer under the provisions of Chapter 7 (commencing with Section 6700), insofar as he or she practices the profession for which he or she is registered, is exempt from the provisions of this chapter, except that a structural engineer may not use the title "architect," unless he or she holds a license as required in this chapter.

SEC. 6. Section 5550.1 of the Business and Professions Code is amended to read:

5550.1. An applicant for a license to practice architecture shall be required, as part of the examination for licensure, to demonstrate to the board's satisfaction his or her knowledge and understanding of and proficiency in exterior and interior barrier free design.

The board shall include questions regarding exterior and interior barrier free design as part of the examination. Those questions shall periodically be reviewed by the board in order to ensure that the examination reflects current regulations and the latest developments in barrier free design.

SEC. 7. Section 5565 of the Business and Professions Code is amended to read:

5565. The decision may:

(a) Provide for the immediate complete suspension by the holder of the license of all operations as an architect during the period fixed by the decision.

(b) Permit the holder of the license to complete any or all contracts for the performance of architectural services shown by evidence taken at the hearing to be then unfinished.

(c) Impose upon the holder of the license compliance with any specific conditions as may be just in connection with his or her operations as an architect disclosed at the hearing, and may further provide that until those conditions are complied with no application for restoration of the suspended or revoked license shall be accepted by the board.

(d) Assess a fine not in excess of five thousand dollars ($5,000) against the holder of a license for any of the causes specified in Section 5577. A fine may be assessed in lieu of, or in addition to, a suspension or revocation. All fines collected pursuant to this subdivision shall be deposited to the credit of the California Board of Architectural Examiners Fund.

SEC. 8. Section 5566 of the Business and Professions Code is amended to read:

5566. If, upon completion of an investigation, the executive officer has probable cause to believe that a licensee or an unlicensed individual acting in the capacity of an architect has violated provisions of this chapter, he or she may issue a citation to the licensee or individual, as provided in this section. Each citation shall be in writing and shall describe with particularity the nature of the violation, including a reference to the provision of this chapter alleged to have been violated. In addition, each citation may contain an assessment of a civil penalty. The citation shall be served upon the licensee or unlicensed individual personally or through registered mail. Before any citation may be issued, the executive officer shall submit the alleged violation for review and investigation to at least one designee of the board who is a certificate holder or a staff architect. The review shall include attempts to contact the licensee or unlicensed individual to discuss and resolve the alleged violation. Upon conclusion of the board designee's review, the designee shall prepare a finding of fact and a recommendation. If the board designee concludes that probable cause exists that a licensee or unlicensed individual has violated any provisions of this chapter, a citation shall be issued to the licensee or unlicensed individual.

SEC. 9. Section 5566.2 of the Business and Professions Code is amended to read:

5566.2. (a) If a licensee or an unlicensed individual desires to contest a citation or the proposed assessment of a civil penalty therefor, he or she shall, within 10 business days after service of the citation, notify the executive officer in writing of his or her request for an informal conference with the executive officer or his or her designee. The executive officer or his or her designee shall hold, within 60 days from the receipt of the request, an informal conference. At the conclusion of the informal conference the executive officer may affirm, modify, or dismiss the citation or proposed assessment of a civil penalty, and he or she shall state with particularity in writing his or her reasons for the action, and shall immediately transmit a copy thereof to the board, the licensee or unlicensed individuals, and the person who submitted the verified complaint. If the licensee or unlicensed individual desires to contest a decision made after the informal conference, he or she shall inform the executive officer in writing within five business days after he or she receives the decision resulting from the informal conference.

If the licensee or unlicensed individual fails to notify the executive officer in writing that he or she intends to contest the citation or the proposed assessment of a civil penalty therefor or the decision made after an informal conference within the time specified in this subdivision, the citation or the proposed assessment of a civil penalty or the decision made after an informal conference shall be deemed a final order of the board and shall not be subject to further administrative review.

(b) A licensee or an unlicensed individual may, in lieu of contesting a citation pursuant to this section, transmit to the board the amount assessed in the citation as a civil penalty, within 10 business days after service of the citation.

(c) If a licensee or an unlicensed individual has notified the executive officer in a timely manner that he or she intends to contest the decision made after the informal conference, the executive officer shall arrange a hearing before the board. After the hearing, the board shall issue a decision, based on findings of fact, affirming, modifying, or vacating the citation, or directing other appropriate relief which shall include, but need not be limited to, a notice that the failure of a licensee or unlicensed individual to comply with any provision of the board's decision constitutes grounds for suspension, or denial of licensure, or both. The proceedings under this section shall be conducted in accordance with the provisions of Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the board shall have all the powers granted therein.

(d) After the exhaustion of the review procedures provided for in this section, the board may apply to the appropriate superior court for a judgment in the amount of the civil penalty and an order compelling the cited person to comply with the order of abatement. The application, which shall include a certified copy of the final order of the board, shall constitute a sufficient showing to warrant the issuance of the judgment and order.

(e) Failure of a licensee to pay a fine within 30 days of the date of assessment, unless the citation is being appealed, may result in disciplinary action being taken by the board. Where a citation is not contested and a fine is not paid, the full amount of the assessed fine shall be added to the fee for for renewal of the license. A license shall not be renewed without payment of the renewal fee and fine.

(f) Any civil penalties received under this chapter shall be deposited in the California Board of Architectural Examiners Fund.

SEC. 10. Section 5600.2 of the Business and Professions Code is amended to read:

5600.2. Except as otherwise provided in this chapter, a license which has expired may be renewed at any time within five years after its expiration on filing of application for renewal on a form prescribed by the board, and payment of all accrued and unpaid renewal fees. If a license is renewed more than 30 days after its expiration, the licenseholder, as a condition precedent to renewal, shall also pay the delinquency fee prescribed by this chapter. Renewal under this section shall be effective on the date on which the application is filed, on the date on which the renewal fee is paid, or on the date on which the delinquency fee, if any, is paid, whichever last occurs. If so renewed, the license shall continue in effect through the expiration date provided in this chapter which next occurs after the effective date of the renewal, when it shall expire if it is not again renewed.

SEC. 11. Section 5601 of the Business and Professions Code is amended to read:

5601. Within 10 days after the beginning of every month, all fees collected by the department for the month preceding, under the provisions of this chapter, shall be paid into the State Treasury to the credit of the California Board of Architectural Examiners Fund.

SEC. 12. Section 5602 of the Business and Professions Code is amended to read:

5602. The money paid into the California Board of Architectural Examiners Fund, which is hereby continued in existence, shall be used in the manner prescribed by law to defray the expenses of the board in carrying out and enforcing the provisions of this chapter.

SEC. 13. Section 5603 of the Business and Professions Code is amended to read:

5603. The board shall maintain, publish, and distribute to local building departments, and others upon request, an official roster listing the name, license number, and address of all its licensees issued licenses pursuant to this chapter and who are in good standing. The roster shall be open to inspection by the public during office hours of the board. Except for local building departments, the board may charge a fee for the maintenance, publication, and distribution of the roster, not to exceed the actual cost thereof. All fees collected pursuant to this section shall be deposited in the California Board of Architectural Examiners Fund.

SEC. 14. Section 5610 of the Business and Professions Code is amended to read:

5610. A professional architectural corporation is a corporation which is authorized to render professional services, as defined in Section 13401 of the Corporations Code, so long as that corporation and its shareholders, officers, directors, and employees rendering professional services who are licensed architects, are in compliance with the Moscone-Knox Professional Corporation Act (Part 4 (commencing with Section 13400) of Division 3 of Title 1 of the Corporations Code), this article, and all other statutes and regulations pertaining to the corporation and the conduct of its affairs. With respect to an architectural corporation, the governmental agency referred to in the Moscone-Knox Professional Corporation Act is the California Board of Architectural Examiners.

SEC. 15. Section 5610.3 of the Business and Professions Code is amended to read:

5610.3. The name of a professional architectural corporation and any name or names under which it may be rendering professional services shall contain and be restricted to the name or the last name of one or more of the present, prospective, or former shareholders, or of persons who were associated with a predecessor person, partnership, or other organization and whose name or names appeared in the name of the predecessor organization, and shall include either (1) the words "architectural corporation" or (2) the word "architect" or "architects" and wording or abbreviations

denoting corporate existence.

SEC. 16. Section 5610.4 of the Business and Professions Code is amended to read:

5610.4. Except as provided in Section 13403 of the Corporations Code, each director, shareholder, and officer of a professional architectural corporation shall be a licensed person as defined in the Moscone-Knox Professional Corporation Act.

SEC. 17. Section 5610.5 of the Business and Professions Code is amended to read:

5610.5. The income of a professional architectural corporation attributable to professional services rendered while a shareholder is a disqualified person (as defined in the Moscone-Knox Professional Corporation Act) shall not in any manner accrue to the benefit of that shareholder or his or her shares in the professional architectural corporation.

SEC. 18. Section 5610.6 of the Business and Professions Code is amended to read:

5610.6. A professional architectural corporation shall not do or fail to do any act the doing of which or the failure to do which would constitute unprofessional conduct under any statute, rule, or regulation now or hereafter in effect. In the conduct of its practice, it shall observe and be bound by those statutes, rules, and regulations to the same extent as a person holding a license under Section 5551.

SEC. 19. Section 5610.7 of the Business and Professions Code is amended to read:

5610.7. The board may formulate and enforce rules and regulations to carry out the purposes and objectives of this article, including rules and regulations requiring (a) that the articles of incorporation or bylaws of an architectural corporation shall include a provision whereby the capital stock of the corporation owned by a disqualified person (as defined in the Moscone-Knox Professional Corporation Act), or a deceased person, shall be sold to the corporation or to the remaining shareholders of the corporation within the time as those rules and regulations may provide, and (b) that an architectural corporation shall provide adequate security by insurance or otherwise for claims against it by its clients arising out of the rendering of professional services.

SEC. 20. Section 13401 of the Corporations Code is amended to read:

13401. As used in this part:

(a) "Professional services" means any type of professional services which may be lawfully rendered only pursuant to a license, certification, or registration authorized by the Business and Professions Code or the Chiropractic Act.

(b) "Professional corporation" means a corporation organized under the General Corporation Law which is engaged in rendering professional services in a single profession, except as otherwise authorized in Section 13401.5, pursuant to a certificate of registration issued by the governmental agency regulating the profession as

herein provided and which in its practice or business designates itself as a professional or other corporation as may be required by statute. However, any professional corporation rendering professional services by persons duly licensed by the Medical Board of California or any examining committee under the jurisdiction of the board, the State Board of Pharmacy, the Board of Examiners in Veterinary Medicine, the Board of Architectural Examiners, or the Board of Registered Nursing shall not be required to obtain a certificate of registration in order to render those professional services.

(c) "Licensed person" means any natural person who is duly licensed under the provisions of the Business and Professions Code or the Chiropractic Act to render the same professional services as are or will be rendered by the professional corporation of which he or she is or intends to become, an officer, director, shareholder, or employee.

(d) "Disqualified person" means a licensed person who for any reason becomes legally disqualified (temporarily or permanently) to render the professional services which the particular professional corporation of which he or she is an officer, director, shareholder, or employee is or was rendering.

CHAPTER 567

An act to amend Sections 999, 999.2, and 1314 of, and to add Section 999.9 to, the Military and Veterans Code, relating to veterans, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 5, 1991. Filed with Secretary of State October 7, 1991.]

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

SECTION 1. The Legislature finds and declares that the Korean conflict resulted in untold casualties, and our state and country does not have a completely negotiated peace treaty despite the passage of almost 40 years since the initial truce.

SEC. 2. Section 999 of the Military and Veterans Code, as amended by Chapter 291 of the Statutes of 1991, is amended to read:

999. As used in this article, the following definitions apply:

(a) "Administering agency" means the Treasurer in the case of contracts for professional bond services, and the Office of Small and Minority Business in the case of contracts governed by Section 999.2.

(b) "Awarding department" means any agency, department, constitutional officer, governmental entity, or other officer or entity of the state empowered by law to issue bonds or enter into contracts on behalf of the State of California.

(c) "Bonds" means bonds, notes, warrants, certificates of

participation, and other evidences of indebtedness issued by or on behalf of the State of California.

(d) "Contract" includes any contract, agreement, or joint agreement to provide professional bond services to the State of California or an awarding department. "Contract" also includes any agreement or joint development agreement to provide labor, services, material, supplies, or equipment in the performance of a contract, franchise, concession, or lease granted, let, or awarded for and on behalf of the State of California.

(e) "Contractor" means any person or persons, firm, partnership, corporation, or combination thereof who submits a bid and enters into a contract with a representative of a state agency, department, governmental entity, or other officer empowered by law to enter into contracts on behalf of the State of California. "Contractor" includes any provider of professional bond services who enters into a contract with an awarding department.

(f) "Disabled veteran" means a veteran of the military, naval, or air service of the United States with a service-connected disability who is a resident of the State of California.

(g) "Disabled veteran business enterprise" means a business concern certified by the administering agency as meeting all of the following requirements:

(1) It is a sole proprietorship at least 51 percent owned by one or more disabled veterans or, in the case of a publicly owned business, at least 51 percent of its stock is owned by one or more disabled veterans; a subsidiary which is wholly owned by a parent corporation, but only if at least 51 percent of the voting stock of the parent corporation is owned by one or more disabled veterans; or a joint venture in which at least 51 percent of the joint venture's management and control and earnings are held by one or more disabled veterans.

(2) The management and control of the daily business operations are by one or more disabled veterans. The disabled veterans who exercise management and control are not required to be the same disabled veterans as the owners of the business concern.

(3) It is a sole proprietorship, corporation, or partnership with its home office located in the United States, which is not a branch or subsidiary of a foreign corporation, foreign firm, or other foreign-based business.

(h) "Foreign corporation," "foreign firm," and "foreign-based business" means a business entity that is incorporated or has its principal headquarters located outside the United States of America.

(i) "Goal" means a numerically expressed objective that awarding departments are required to make efforts to achieve.

(j) "Management and control" means effective and demonstrable management of the business entity.

(k) "Professional bond services" include services as financial advisers, bond counsel, underwriters in negotiated transactions, underwriter's counsel, financial printers, feasibility consultants, and

other professional services related to the issuance and sale of bonds.

SEC. 3. Section 999.2 of the Military and Veterans Code is amended to read:

999.2. (a) Notwithstanding any other provision of law, all contracts awarded by any state agency, department, officer, or other state governmental entity for construction, professional services (except those subject to Chapter 6 (commencing with Section 16850) of Part 3 of Division 4 of Title 2 of the Government Code), materials, supplies, equipment, alteration, repair, or improvement shall have statewide participation goals of not less than 3 percent for disabled veteran business enterprises. These goals apply to the overall dollar amount expended each year by the awarding department. This article shall not apply to any contract that is subject to Section 10108.5 of the Public Contract Code.

(b) The awarding department may exempt from the statewide participation goals specified in subdivision (a), contracts for a dollar amount of ten thousand dollars ($10,000) or less.

SEC. 4. Section 999.9 is added to the Military and Veterans Code, to read:

999.9. (a) It shall be unlawful for a person to:

(1) Knowingly and with intent to defraud, fraudulently obtain, retain, attempt to obtain or retain, or aid another in fraudulently obtaining or retaining or attempting to obtain or retain, certification as a disabled veteran business enterprise for the purpose of this article.

(2) Willfully and knowingly make a false statement with the intent to defraud, whether by affidavit, report, or other representation, to a state official or employee for the purpose of influencing the certification or denial of certification of any entity as a disabled veteran business enterprise.

(3) Willfully and knowingly obstruct, impede, or attempt to obstruct or impede, any state official or employee who is investigating the qualifications of a business entity which has requested certification as a disabled veteran business enterprise.

(4) Knowingly and with intent to defraud, fraudulently obtain, attempt to obtain, or aid another person in fraudulently obtaining or attempting to obtain, public moneys to which the person is not entitled under this article.

(b) Any person who violates any of the provisions of subdivision (a) shall be liable for a civil penalty not to exceed five thousand dollars ($5,000) for the first violation, and a civil penalty not to exceed twenty thousand dollars ($20,000) for each additional or subsequent violation.

(c) Any person who violates subdivision (a) shall, in addition to the penalties provided for in subdivision (b), be suspended from bidding on, or participating as either a contractor, subcontractor, or supplier in, any state contract or project for a period of not less than 30 days nor more than one year. However, for an additional or subsequent violation the period of suspension shall be extended for

a period of up to three years. Any business or person who fails to satisfy the penalties imposed pursuant to subdivisions (b) and (c) shall be prohibited from further contracting with the state until the penalties are satisfied.

(d) The awarding department shall report all alleged violations of this section to the Office of Small and Minority Business. The office shall subsequently report all alleged violations to the Attorney General who shall determine whether to bring a civil action against any person or firm for violation of this section.

(e) The office shall monitor the status of all reported violations and shall maintain and make available to all state departments a central listing of all firms and persons who have been determined to have committed violations resulting in suspension.

(f) No awarding department shall enter into any contract with any person suspended for violating this section during the period of the person's suspension. No awarding department shall award a contract to any contractor utilizing the services of any person as a subcontractor suspended for violating this section during the period of the person's suspension.

(g) The awarding department shall check the central listing provided by the office to verify that the person or contractor to whom the contract is being awarded, or any person being utilized as a subcontractor or supplier by that person or contractor, is not under suspension for violating this section.

SEC. 5. Section 1314 of the Military and Veterans Code is amended to read:

1314. With respect to the design and construction of the memorial, the commission may do all of the following:

(a) Establish a schedule for the design, construction, and dedication of the memorial. The design may reflect all United States military conflicts, including, but not limited to, conflicts of the 19th and 20th century. The memorial may emphasize wars and other periods in which Californians played a role, including, but not limited to, the Korean War.

(b) Implement procedures to solicit designs for the memorial and devise a selection process for the choice of the design.

(c) Select individuals or organizations to provide fundraising services and to construct the memorial.

(d) Review and monitor the design and construction of the memorial and establish a program for the dedication of the memorial.

(e) Report to the Legislature through the Assembly Committee on Governmental Organization and the Senate Committee on Veterans Affairs at least once per year on the progress of the memorial.

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

In order to implement the changes to the disabled veteran's preference requirements and to avoid fraud in state contracting relating thereto at the earliest time, and in order to implement the changes in the progress reports authorized by this act in this year's report concerning the veterans' memorial, and in order to change the design requirements for the veterans' memorial before that design begins, it is necessary for this act to take effect immediately.

CHAPTER 568

An act to amend Section 6547 of, and to add Section 6546.13 to, the Government Code, relating to joint powers authorities.

[Approved by Governor October 5, 1991. Filed with Secretary of State October 7, 1991.]

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

SECTION 1. Section 6546.13 is added to the Government Code, to read:

6546.13. (a) The Alameda Corridor Transportation Authority, or its successor organization, may issue revenue bonds pursuant to this article or bonds pursuant to Article 4 (commencing with Section 6584), for the limited purpose of paying for acquiring the land, and designing, engineering, constructing, and improving that project, including all facilities and improvements of the consolidated transportation corridor, and including all associated financing costs. Ineligible expenses shall include any expenses for the maintenance, operations, and administration of the consolidated transportation corridor.

(b) For the purposes of this section, "consolidated transportation corridor" means a transportation corridor created to improve highway or rail access to the Ports of Long Beach and Los Angeles.

(c) Anticipated sources of revenue or other funds to pay the principal of and interest on the bonds authorized by this section may include a pledge or revenues from the Ports of Long Beach and Los Angeles, railroad use fees, truck fees, and pledges from other public and private sources.

(d) Any joint powers entity seeking authorization to issue revenue bonds pursuant to this section shall do so in compliance with Sections 6547 and 6547.5.

(e) Any joint powers entity under this section seeking to issue bonds pursuant to the Marks-Roos Local Bond Pooling Act of 1985 (Article 4 (commencing with Section 6584)) shall do so in compliance with all of the provisions under Article 4 (commencing with Section 6584).

(f) The authority to issue revenue bonds under this article or bonds under Article 4 (commencing with Section 6584) shall be of

no further force and effect after December 31, 2015, unless (1) the joint powers authority has initially issued revenue bonds or bonds on or prior to December 31, 2015, or (2) the joint powers authority is unable to initially issue revenue bonds or bonds to accomplish the purpose of this section by reason of litigation relating to the initial issuance, in which case the authority to initially issue revenue bonds under this article and bonds under Article 4 (commencing with Section 6584) shall continue to be effective until the final determination of that litigation and for one year thereafter. If the joint powers authority has initially issued revenue bonds or bonds within either of the time periods permitted by this subdivision, the authority to issue subsequent issues of revenue bonds or bonds and to refund any issue of revenue bonds under this article or bonds under Article 4 (commencing with Section 6584) shall continue as long as initially issued revenue bonds or bonds remain outstanding and unpaid.

SEC. 2. Section 6547 of the Government Code is amended to read:

6547. The power of the entity to issue revenue bonds is additional to the powers common to the parties to the joint powers agreement, but shall not be exercised until authorized by the parties to that agreement. However, in the case of the issuance of revenue bonds by a fair and exhibition authority this authorization shall not be required. In the case of the issuance of revenue bonds by an entity created pursuant to this chapter to construct bridges and major thoroughfares, as referred to in Section 66484.3, the power of the entity to issue revenue bonds shall be exercised by a resolution adopted by a majority vote of the governing body of the entity. However, no member of the entity may vote on the question of bond issuance unless the member has been authorized to vote on that particular question by previous resolution of the public agency the member represents. In the case of the issuance of revenue bonds by an entity created pursuant to this chapter to carry out a consolidated transportation corridor project, as referred to in Section 6546.13, the power of the entity to issue revenue bonds shall be exercised by a resolution adopted by a majority vote of the governing body of the entity. In the case of a project for the generation or transmission of electric energy or a project for the disposal, treatment, or conversion to energy and reusable materials of solid waste, or a project for an intermodal container transfer facility, or a project for the construction of bridges and major thoroughfares pursuant to Section 66484.3, this power shall include the power to issue notes for the purpose of financing studies, the acquisition of options, permits, and other preliminary costs to be incurred prior to the undertaking of the construction or acquisition of a project, and for the purpose of providing temporary financing of costs of construction or acquisition of a project. These notes may be issued at public or private sale, and may be renewed from time to time, and the principal and interest with respect thereto may be made payable from the revenues of the

entity unless paid from the proceeds of revenue bonds.

Every local agency shall make any authorization, as permitted under the first sentence of this section, by ordinance, unless otherwise prescribed in this section. Except as provided in this section, the ordinance shall describe in general terms the project, or projects, to be funded by the revenue bonds, the maximum amount of the bonds proposed to be issued, and the anticipated sources of revenue to redeem the bonds. In the case of a project for the generation or transmission of electric energy or a project for the disposal, treatment, or conversion to energy and reusable materials of solid waste, or a project for an intermodal container transfer facility, or a project for the construction of bridges and major thoroughfares pursuant to Section 66484.3, the ordinance shall describe in general terms the project or the studies or other preliminary costs therefor to be funded by the revenue bonds or notes, the estimate of the maximum amount of bonds to be issued for the project or the studies or other preliminary costs, and the anticipated sources of revenue or other funds to pay the principal of and interest on the bonds or notes. In the case of a project for a consolidated transportation corridor pursuant to Section 6546.13, the authorizing resolution shall describe in general terms, the project or projects to be funded by the revenue bonds, the maximum amount of bonds proposed to be issued for the project or projects, and the anticipated sources of revenue or other funds to pay the principal of and interest on the bonds. However, the statement of the estimated maximum amount of the bonds or notes shall not be deemed to prevent the authorization by the ordinance of the issuance of bonds or notes by the entity in amounts which may exceed the estimate without further authorization under the ordinance if and to the extent the additional bonds or notes shall be required to complete the financing of the project or the studies or other preliminary costs. Each such ordinance shall state that it is subject to the provisions for referendum prescribed by Section 3751.7 of the Elections Code.

A separate authorization shall be required for each separate bond issue proposed by the entity, except that, in the case of a project for the generation or transmission of electric energy or a project for the disposal, treatment, or conversion to energy and reusable materials of solid waste, or a project for an intermodal container transfer facility, or a project for the construction of bridges and major thoroughfares pursuant to Section 66484.3, a single authorization shall be sufficient for bonds which may be issued in installments from time to time for a project or the costs of studies or other preliminary costs therefor which shall be identified in the authorization.

The requirement of an ordinance and the right to referendum thereon shall not apply to the issuance of revenue bonds if, prior to March 4, 1971, one or more local or public agencies shall have taken formal action to implement any one or more projects to be acquired or constructed pursuant to a joint powers agreement. Formal action to implement any one or more projects shall include, but not be

limited to, any of the following:

(a) The incurring of liability for a substantial portion of an architectural or engineering contract or other contract relating to a project.

(b) The acquisition of land or improvements for the project.

(c) The making of a substantial contribution toward the project.

Notwithstanding the requirement that parties to a joint powers agreement authorize the issuance of revenue bonds, in the case of a project which consists of the generation or transmission of electric energy financed in whole or in part by the issuance of revenue bonds, only those local agencies which contract to make payments to be applied to the payment of the revenue bonds shall be required to authorize the issuance of the revenue bonds.

Any authorizations required by this section for the issuance of revenue bonds to construct bridges and major thoroughfares projects pursuant to Section 50029 or 66484.3 may be by ordinance or resolution.

SEC. 3. Notwithstanding Section 16 of Article IV of the Constitution, the Legislature hereby finds and declares that due to transportation problems unique to the area bounded by the Alameda Corridor Transportation Authority, a general statute cannot be made applicable to the area in question and it is therefore necessary to enact a special statute.

CHAPTER 569

An act to add Section 12599.5 to the Government Code, relating to fundraisers.

[Approved by Governor October 5, 1991. Filed with Secretary of State October 7, 1991.]

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

SECTION 1. Section 12599.5 is added to the Government Code, to read:

12599.5. Each application for registration or renewal of registration under subdivision (b) of Section 12599 shall be accompanied by a cash deposit or by a bond issued by an admitted surety in favor of the State of California and in a form acceptable to the Attorney General. The cash deposit or bond shall be in the amount of twenty-five thousand dollars ($25,000) and shall be for the benefit of any person damaged as a result of malfeasance or misfeasance in the conduct of the activities specified in subdivision (a) of Section 12599. The bond may be in the form of a rider to a larger blanket liability bond.

CHAPTER 570

An act to amend Section 44010 of the Education Code, relating to employees.

[Approved by Governor October 5, 1991. Filed with Secretary of State October 7, 1991.]

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

SECTION 1. Section 44010 of the Education Code is amended to read:

44010. "Sex offense," as used in Sections 44346, 44425, 44436, 44836, 45123, and 45304, means any one or more of the offenses listed below:

(a) Any offense defined in Section 261.5, 266, 267, 285, 286, 288, 288a, 647.6, or former Section 647a, subdivision (a), (b), or (c) of Section 243.4, subdivision 1, 2, 3, or 4 of Section 261, or subdivision (a) or (d) of Section 647 of the Penal Code.

(b) Any offense defined in former subdivision 5 of former Section 647 of the Penal Code repealed by Chapter 560 of the Statutes of 1961, or any offense defined in former subdivision 2 of former Section 311 of the Penal Code repealed by Chapter 2147 of the Statutes of 1961, if the offense defined in such sections was committed prior to September 15, 1961, to the same extent that an offense committed prior to that date was a sex offense for the purposes of this section prior to September 15, 1961.

(c) Any offense defined in Section 314 of the Penal Code committed on or after September 15, 1961.

(d) Any offense defined in former subdivision 1 of former Section 311 of the Penal Code repealed by Chapter 2147 of the Statutes of 1961 committed on or after September 7, 1955, and prior to September 15, 1961.

(e) Any offense involving lewd and lascivious conduct under Section 272 of the Penal Code committed on or after September 15, 1961.

(f) Any offense involving lewd and lascivious conduct under former Section 702 of the Welfare and Institutions Code repealed by Chapter 1616 of the Statutes of 1961, if that offense was committed prior to September 15, 1961, to the same extent that an offense committed prior to that date was a sex offense for the purposes of this section prior to September 15, 1961.

(g) Any offense defined in Section 286 or 288a of the Penal Code prior to the effective date of the amendment of either section enacted at the 1975–76 Regular Session of the Legislature committed prior to the effective date of the amendment.

(h) Any attempt to commit any of the above-mentioned offenses.

(i) Any offense committed or attempted in any other state which, if committed or attempted in this state, would have been punishable

as one or more of the above-mentioned offenses.

SEC. 2. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 571

An act to amend Section 17510.3 of the Business and Professions Code, relating to charitable solicitations.

[Approved by Governor October 5, 1991. Filed with Secretary of State October 7, 1991]

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

SECTION 1. Section 17510.3 of the Business and Professions Code is amended to read:

17510.3. (a) Prior to any solicitation or sales solicitation for charitable purposes, the solicitor or seller shall exhibit to the prospective donor or purchaser a card entitled "Solicitation or Sale for Charitable Purposes Card." The card shall be signed and dated under penalty of perjury by an individual who is a principal, staff member, or officer of the soliciting organization. The card shall give the name and address of the soliciting organization or the person who signed the card and the name and business address of the paid individual who is doing the actual soliciting.

In lieu of exhibiting a card, the solicitor or seller may distribute during the course of the solicitation any printed material, such as a solicitation brochure, provided such material complies with the standards set forth below, and provided that the solicitor or seller informs the prospective donor or purchaser that the information as required below is contained in the printed material.

Information on the card or printed material shall be presented in at least 10-point type and shall include the following:

(1) The name and address of the combined campaign, each organization, or fund on behalf of which all or any part of the money collected will be utilized for charitable purposes.

(2) If there is no organization or fund, the manner in which the money collected will be utilized for charitable purposes.

(3) The amount, stated as a percentage of the total gift or purchase price, that will be used for charitable purposes.

(4) If paid fund raisers are paid a set fee rather than a percentage of the total amount raised, the card shall show the total cost that is estimated will be used for direct fundraising expenses.

(5) If the solicitation is not a sale solicitation, the card may state, in place of the amount of fundraising expenses, that an audited financial statement of such expenses may be obtained by contacting the organization at the address disclosed.

(6) The non-tax-exempt status of the organization or fund, if the organization or fund for which the money or funds are being solicited does not have a charitable tax exemption under both federal and state law.

(7) The percentage of the total gift or purchase price which may be deducted as a charitable contribution under both federal and state law. If no portion is so deductible the card shall state that "This contribution is not tax deductible."

(8) If the organization making the solicitation represents any nongovernmental organization by any name which includes, but is not limited to, the term "officer," "peace officer," "police," "law enforcement," "reserve officer," "deputy," "California Highway Patrol," "Highway Patrol," or "deputy sheriff," which would reasonably be understood to imply that the organization is composed of law enforcement personnel, the solicitor shall give the total number of members in the organization and the number of members working or living within the county where the solicitation is being made, and if the solicitation is for advertising, the statewide circulation of the publication in which the solicited ad will appear.

(9) If the organization making the solicitation represents any nongovernmental organization by any name which includes, but is not limited to, the term "veteran" or "veterans," which would reasonably be understood to imply that the organization is composed of veterans, the solicitor shall give the total number of members in the organization and the number of members working or living within the county where the solicitation is being made. This paragraph does not apply to federally chartered or state incorporated veterans' organizations with 200 or more dues paying members or to a thrift store operated or controlled by a federally chartered or state incorporated veterans' organization. This paragraph does not apply to any state incorporated community based organization that provides direct services to veterans and their families and qualifies as a tax-exempt organization under Section 501(c)(3) or 501(c)(19) of the Internal Revenue Code and Section 23701d of the Revenue and Taxation Code.

(b) Knowing and willful noncompliance by any individual volunteer who receives no compensation of any type from or in connection with a solicitation by any charitable organization shall subject the solicitor or seller to the penalties of the law.

(c) When the solicitation is not a sales solicitation, any individual

volunteer who receives no compensation of any type from, or in connection with, a solicitation by any charitable organization may comply with the disclosure provisions by providing the name and address of the charitable organization on behalf of which all or any part of the money collected will be utilized for charitable purposes, by stating the charitable purposes for which the solicitation is made, and by stating to the person solicited that information about revenues and expenses of such organization, including its administration and fundraising costs, may be obtained by contacting the organization's office at the address disclosed. The organization shall provide this information to the person solicited within seven days after receipt of the request.

(d) A volunteer who receives no compensation of any type from, or in connection with, a solicitation or sales solicitation by a charitable organization which has qualified for a tax exemption under Section 501(c)(3) of the Internal Revenue Code of 1954, and who is 18 years of age or younger, is not required to make any disclosures pursuant to this section.

SEC. 1.5. Section 17510.3 of the Business and Professions Code is amended to read:

17510.3. (a) Prior to any solicitation or sales solicitation for charitable purposes, the solicitor or seller shall exhibit to the prospective donor or purchaser a card entitled "Solicitation or Sale for Charitable Purposes Card." The card shall be signed and dated under penalty of perjury by an individual who is a principal, staff member, or officer of the soliciting organization. The card shall give the name and address of the soliciting organization or the person who signed the card and the name and business address of the paid individual who is doing the actual soliciting.

In lieu of exhibiting a card, the solicitor or seller may distribute during the course of the solicitation any printed material, such as a solicitation brochure, provided such material complies with the standards set forth below, and provided that the solicitor or seller informs the prospective donor or purchaser that the information as required below is contained in the printed material.

Information on the card or printed material shall be presented in at least 10-point type and shall include the following:

(1) The name and address of the combined campaign, each organization, or fund on behalf of which all or any part of the money collected will be utilized for charitable purposes.

(2) If there is no organization or fund, the manner in which the money collected will be utilized for charitable purposes.

(3) The amount, stated as a percentage of the total gift or purchase price, that will be used for charitable purposes.

(4) If paid fundraisers are paid a set fee rather than a percentage of the total amount raised, the card shall show the total cost that is estimated will be used for direct fundraising expenses.

(5) If the solicitation is not a sale solicitation, the card may state, in place of the amount of fundraising expenses, that an audited

financial statement of these expenses may be obtained by contacting the organization at the address disclosed.

(6) The nontax-exempt status of the organization or fund, if the organization or fund for which the money or funds are being solicited does not have a charitable tax exemption under both federal and state law.

(7) The percentage of the total gift or purchase price which may be deducted as a charitable contribution under both federal and state law. If no portion is so deductible the card shall state that "This contribution is not tax deductible."

(8) If the organization making the solicitation represents any nongovernmental organization by any name which includes, but is not limited to, the term "officer," "peace officer," "police," "law enforcement," "reserve officer," "deputy," "California Highway Patrol," "Highway Patrol," or "deputy sheriff," which would reasonably be understood to imply that the organization is composed of law enforcement personnel, the solicitor shall give the total number of members in the organization and the number of members working or living within the county where the solicitation is being made, and if the solicitation is for advertising, the statewide circulation of the publication in which the solicited ad will appear.

(9) If the organization making the solicitation represents any nongovernmental organization by any name which includes, but is not limited to, the term "veteran" or "veterans," which would reasonably be understood to imply that the organization is composed of veterans, the solicitor shall give the total number of members in the organization and the number of members working or living within the county where the solicitation is being made. This paragraph does not apply to federally chartered or state incorporated veterans' organizations with 200 or more dues paying members or to a thrift store operated or controlled by a federally chartered or state incorporated veterans' organization. This paragraph does not apply to any state incorporated community-based organization that provides direct services to veterans and their families and qualifies as a tax-exempt organization under Section 501 (c) (3) or 501 (c) (19) of the Internal Revenue Code and Section 23701 d of the Revenue and Taxation Code.

(b) Knowing and willful noncompliance by any individual volunteer who receives no compensation of any type from or in connection with a solicitation by any charitable organization shall subject the solicitor or seller to the penalties of the law.

(c) When the solicitation is not a sales solicitation, any individual volunteer who receives no compensation of any type from, or in connection with, a solicitation by any charitable organization may comply with the disclosure provisions by providing the name and address of the charitable organization on behalf of which all or any part of the money collected will be utilized for charitable purposes, by stating the charitable purposes for which the solicitation is made, and by stating to the person solicited that information about

revenues and expenses of the organization, including its administration and fundraising costs, may be obtained by contacting the organization's office at the address disclosed. The organization shall provide this information to the person solicited within seven days after receipt of the request.

(d) A volunteer who receives no compensation of any type from, or in connection with, a solicitation or sales solicitation by a charitable organization which has qualified for a tax exemption under Section 501 (c) (3) of the Internal Revenue Code of 1954, and who is 18 years of age or younger, is not required to make any disclosures pursuant to this section.

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

SEC. 2. Section 1.5 of this bill incorporates amendments to Section 17510.3 of the Business and Professions Code proposed by both this bill and AB 2099. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1992, (2) each bill amends Section 17510.3 of the Business and Professions Code, and (3) this bill is enacted after AB 2099, in which case Section 1 of this bill shall not become operative.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 572

An act to amend, repeal, and add Sections 11571 and 11581 of the Health and Safety Code, relating to controlled substances.

[Approved by Governor October 5, 1991. Filed with Secretary of State October 7, 1991]

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

SECTION 1. Section 11571 of the Health and Safety Code is amended to read:

11571. (a) Whenever there is reason to believe that a nuisance under Section 11570 is kept, maintained, or exists in any city, county,

or city and county, the district attorney of the county, in the name of the people, the city attorney of any incorporated or charter city, or any citizen of the state residing in the city, county, or city and county, in his or her own name, may maintain an action to abate and prevent the nuisance and perpetually to enjoin the person conducting or maintaining it, and the owner, lessee, or agent of the building or place, in or upon which the nuisance exists, from directly or indirectly maintaining or permitting the nuisance.

(b) (1) In the case of a residential dwelling, residential building, or residential place, prior to bringing or maintaining an action to abate or prevent a nuisance as prescribed in subdivision (a), the district attorney or the city attorney shall give notice to the owner of the building as shown on the last equalized assessment roll where the nuisance is alleged to exist and shall request that the nuisance be abated within a reasonable time of the receipt of the notice.

(2) The notice shall contain as enclosures documentation to establish that a nuisance exists in or upon the dwelling, building, or place.

(3) The notice shall be served on the owner by personal service or by certified mail.

(4) "Reasonable time" shall mean at least 30 days, unless a shorter time period is agreed to by the owner and the agency issuing the notice.

(5) This subdivision shall apply only to an action brought or maintained by a district attorney or city attorney.

(6) This notice shall not be required prior to bringing or maintaining an action to abate or prevent a nuisance if any one of the following circumstances exist:

(A) There is a danger to the public.

(B) The notice would impede an investigation.

(C) The district attorney or city attorney determines there is good cause to forego the notice.

(D) For purposes of this paragraph, "good cause" includes, but is not limited to, when the owner is unavailable or is evading service of process.

(E) In reviewing whether a notice should have been given under this paragraph, the court shall presume that the determination made by the issuing agency is valid.

(c) (1) If the notice identifies a particular tenant as responsible for the nuisance activity, the issuing agency shall also serve a copy of the notice and supporting documentation on that tenant.

(2) The notice shall not be required if any of the following circumstances exist:

(A) The district attorney or city attorney determines that there is good cause to forego notice. For the purposes of this subparagraph, "good cause" includes, but is not limited to, when the tenant is unavailable or is evading service of process. In reviewing a determination of good cause, the court shall presume that a determination made by the issuing agency is valid.

(B) The issuing agency provides the tenant with sufficient information to obtain a copy of the notice and supporting documentation on that tenant, in lieu of serving a copy of the notice.

(3) The issuing agency shall provide the identified tenant with the opportunity to demonstrate to the agency that the notice was issued on insufficient grounds, that the tenant has been mistakenly identified as the cause of the nuisance activity, or that a nuisance does not exist and therefore no adverse action should be taken.

(d) The failure of a district attorney or city attorney to serve a notice as required by subdivision (b) or (c) shall not be a cause for the dismissal or delay of an action filed pursuant to subdivision (a). However, the failure to give that notice without good cause may be considered by a court as a mitigating factor in its assessment of any civil penalty under Section 11581.

(e) This section shall be repealed on January 1, 1996.

SEC. 2. Section 11571 is added to the Health and Safety Code, to read:

11571. Whenever there is reason to believe that such a nuisance is kept, maintained, or exists in any county, the district attorney of the county, in the name of the people, may, or the city attorney of any incorporated city, or any citizen of the state resident in the county, in his or her own name, may, maintain an action to abate and prevent the nuisance and perpetually to enjoin the person conducting or maintaining it, and the owner, lessee, or agent of the building or place, in or upon which the nuisance exists, from directly or indirectly maintaining or permitting the nuisance.

This section shall become operative on January 1, 1996.

SEC. 3. Section 11581 of the Health and Safety Code is amended to read:

11581. (a) If the existence of the nuisance is established in the action, an order of abatement shall be entered as a part of the judgment, which order shall direct the removal from the dwelling, building, or place of all fixtures, musical instruments, and other movable property used in conducting, maintaining, aiding, or abetting the nuisance and shall direct their sale in the manner provided for the sale of chattels under execution.

(b) (1) The order shall provide for the effectual closing of the dwelling, building, or place against its use for any purpose and for keeping it closed for a period of one year. This subdivision is intended to give priority to closure. Any alternative to closure may be considered only as provided in this section.

(2) In addition, the court may assess a civil penalty not to exceed twenty-five thousand dollars ($25,000) against any or all of the defendants, based upon the severity of the nuisance and its duration.

(3) In establishing the amount of any civil penalty, the court shall consider all of the following factors:

(A) The actions taken by the defendant to mitigate or correct the problem at the dwelling, building, or place or the reasons why the defendants did not take any such action.

(B) The failure of a district attorney or city attorney to serve a notice as required by Section 11571.

(C) Any previous actions brought against the defendant pursuant to this article.

(D) The cost to the agency of investigating and correcting the condition.

(E) Any other factor deemed by the court to be relevant.

(c) (1) If the court finds that any vacancy resulting from closure of the building or place may create a nuisance or that closure is otherwise harmful to the community, in lieu of ordering the building or place closed, the court may order the person who is responsible for the existence of the nuisance, or the person who knowingly permits controlled substances to be unlawfully sold, served, stored, kept, or given away in or from a building or place he or she owns, to pay damages in an amount equal to the fair market rental value of the building or place for one year to the city or county in whose jurisdiction the nuisance is located for the purpose of carrying out their drug prevention and education programs. If awarded to a city, eligible programs may include those developed as a result of cooperative programs among schools, community agencies, and the local law enforcement agency. If awarded to a county, funds shall be used for those programs that are part of the drug program plan, as specified in Section 11983.2. These funds shall not be used to supplant existing city, county, state, or federal resources used for drug prevention and education programs.

(2) For purposes of this subdivision, the actual amount of rent being received for the rental of the dwelling, building, or place, or the existence of any vacancy therein, may be considered, but shall not be the sole determinant of the fair market rental value. Expert testimony may be used to determine the fair market rental value.

(d) This section shall be repealed on January 1, 1996.

SEC. 4. Section 11581 is added to the Health and Safety Code, to read:

11581. (a) If the existence of the nuisance is established in the action, an order of abatement shall be entered as a part of the judgment, which order shall direct the removal from the building or place of all fixtures, musical instruments, and other movable property used in conducting, maintaining, aiding, or abetting the nuisance and shall direct their sale in the manner provided for the sale of chattels under execution.

(b) The order shall provide for the effectual closing of the building or place against its use for any purpose, and for keeping it closed for a period of one year. This subdivision is intended to give priority to closure. Any alternative to closure may be considered only as provided in this section.

In addition, the court may assess a civil penalty not to exceed twenty-five thousand dollars ($25,000) against any or all of the defendants, based upon the severity of the nuisance and its duration.

(c) (1) If the court finds that any vacancy resulting from closure

of the building or place may create a nuisance or that closure is otherwise harmful to the community, in lieu of ordering the building or place closed, the court may order the person who is responsible for the existence of the nuisance, or the person who knowingly permits controlled substances to be unlawfully sold, served, stored, kept, or given away in or from a building or place he or she owns, to pay damages in an amount equal to the fair market rental value of the building or place for one year to the city or county in whose jurisdiction the nuisance is located for the purpose of carrying out their drug prevention and education programs. If awarded to a city, eligible programs may include those developed as a result of cooperative programs among schools, community agencies, and the local law enforcement agency. If awarded to a county, funds shall be used for those programs that are part of the drug program plan, as specified in Section 11983.2. These funds shall not be used to supplant existing city, county, state, or federal resources used for drug prevention and education programs.

(2) For purposes of this subdivision, the actual amount of rent being received for the rental of the building or place, or the existence of any vacancy therein, may be considered, but shall not be the sole determinant of the fair market rental value. Expert testimony may be used to determine the fair market rental value.

(d) This section shall become operative on January 1, 1996.

CHAPTER 573

An act to amend Sections 11364.7 and 11369 of the Health and Safety Code, relating to controlled substances.

[Approved by Governor October 5, 1991. Filed with Secretary of State October 7, 1991.]

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

SECTION 1. Section 11364.7 of the Health and Safety Code is amended to read:

11364.7. (a) Any person who delivers, furnishes, or transfers, possesses with intent to deliver, furnish, or transfer, or manufactures with the intent to deliver, furnish, or transfer, drug paraphernalia, knowing, or under circumstances where one reasonably should know, that it will be used to plant, propagate, cultivate, grow, harvest, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance, except as provided in subdivision (b), in violation of this division, is guilty of a misdemeanor.

(b) Any person who manufactures with intent to deliver, furnish, or transfer drug paraphernalia knowing, or under circumstances

where one reasonably should know, that it will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body cocaine, cocaine base, heroin, phencyclidine, or methamphetamine in violation of this division shall be punished by imprisonment in the county jail for not more than one year, or in the state prison.

(c) Any person 18 years of age or over who violates subdivision (a) by delivering, furnishing, or transferring drug paraphernalia to a person under 18 years of age who is at least three years his or her junior is guilty of a misdemeanor and shall be punished by imprisonment in the county jail for not more than one year, a fine of not more than one thousand ($1,000), or by both a fine and imprisonment.

(d) The violation, or the causing or the permitting of a violation, of subdivision (a), (b), or (c) by a holder of a business or liquor license issued by a city, county, or city and county, or by the State of California, and in the course of the licensee's business shall be grounds for the revocation of that license.

(e) All drug paraphernalia defined in Section 11014.5 is subject to forfeiture and may be seized by any peace officer pursuant to Section 11471.

(f) If any provision of this section or the application thereof to any person or circumstance is held invalid, it is the intent of the Legislature that the invalidity shall not affect other provisions or applications of this section which can be given effect without the invalid provision or application and to this end the provisions of this section are severable.

SEC. 2. Section 11369 of the Health and Safety Code is amended to read:

11369. When there is reason to believe that any person arrested for a violation of Section 11350, 11351, 11351.5, 11352, 11353, 11355, 11357, 11359, 11360, 11361, 11363, 11366, 11368 or 11550, may not be a citizen of the United States, the arresting agency shall notify the appropriate agency of the United States having charge of deportation matters.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for those costs which may be incurred by a local agency or school district because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

However, notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains other costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for

reimbursement does not exceed one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund.

Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 574

An act to add Section 14104.9 to the Welfare and Institutions Code, relating to Medi-Cal.

[Approved by Governor October 5, 1991 Filed with Secretary of State October 7, 1991.]

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

SECTION 1. Section 14104.9 is added to the Welfare and Institutions Code, to read:

14104.9. Any Medi-Cal contract for fiscal intermediary services entered into on or after January 1, 1992, shall permit the submission of all paper claims for hospital services using billing forms that are as similar as possible to the UB-82, also known as the HCFA-1450. These billing forms shall be designed to be both optically scanned and automatically microfilmed.

CHAPTER 575

An act to add Section 243.8 to the Penal Code, relating to sports officials.

[Approved by Governor October 5, 1991 Filed with Secretary of State October 7, 1991]

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

SECTION 1. Section 243.8 is added to the Penal Code, to read:

243.8. (a) When a battery is committed against a sports official immediately prior to, during, or immediately following an interscholastic, intercollegiate, or any other organized amateur or professional athletic contest in which the sports official is participating, and the person who commits the offense knows or reasonably should know that the victim is engaged in the performance of his or her duties, the offense shall be punishable by a fine not exceeding two thousand dollars ($2,000), or by imprisonment in the county jail not exceeding one year, or by both that fine and imprisonment.

(b) For purposes of this section, "sports official" means any individual who serves as a referee, umpire, linesman, or who serves in a similar capacity but may be known by a different title or name and is duly registered by, or a member of, a local, state, regional, or national organization engaged in part in providing education and training to sports officials.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 576

An act to amend Section 798.73 of the Civil Code, relating to mobilehomes.

[Approved by Governor October 5, 1991. Filed with Secretary of State October 7, 1991]

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

SECTION 1. Section 798.73 of the Civil Code is amended to read:

798.73. The management shall not require the removal of a mobilehome from the park in the event of its sale to a third party during the term of the homeowner's rental agreement. However, in the event of a sale to a third party, in order to upgrade the quality of the park, the management may require that a mobilehome be removed from the park where:

(a) It is not a "mobilehome" within the meaning of Section 798.3.

(b) It is more than 20 years old, or more than 25 years old if manufactured after September 15, 1971, and is 20 feet wide or more, and the mobilehome does not comply with the health and safety standards provided in Sections 18550, 18552, and 18605 of the Health and Safety Code and the regulations established thereunder, as determined following an inspection by the appropriate enforcement agency, as defined in Section 18207 of the Health and Safety Code.

(c) The mobilehome is more than 17 years old, or more than 25 years old if manufactured after September 15, 1971, and is less than 20 feet wide, and the mobilehome does not comply with the construction and safety standards under Sections 18550, 18552, and 18605 of the Health and Safety Code and the regulations established thereunder, as determined following an inspection by the

appropriate enforcement agency, as defined in Section 18207 of the Health and Safety Code.

(d) It is in a significantly rundown condition or in disrepair, as determined by the general condition of the mobilehome and its acceptability to the health and safety of the occupants and to the public, exclusive of its age. The management shall use reasonable discretion in determining the general condition of the mobilehome and its accessory structures. The management shall bear the burden of demonstrating that the mobilehome is in a significantly rundown condition or in disrepair.

CHAPTER 577

An act to amend Sections 5170 and 5173 of, and to add Section 5172.5 to, the Business and Professions Code, relating to accountancy.

[Approved by Governor October 5, 1991. Filed with Secretary of State October 7, 1991.]

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

SECTION 1. Section 5170 of the Business and Professions Code is amended to read:

5170. The board is authorized to enter into a contract with a nonprofit organization controlled by licensees to provide volunteer accounting services within the state. The contract shall be for fifty thousand dollars ($50,000) the first year and may be renewed from year to year in an amount to be determined by the Board of Accountancy not to exceed sixty-five thousand dollars ($65,000) per year.

SEC. 2. Section 5172.5 is added to the Business and Professions Code, to read:

5172.5. (a) An audit of the contract authorized pursuant to Section 5170 shall be performed annually by an independent auditor in accordance with generally accepted accounting principles as specified in the Government Auditing Standards developed by the Comptroller General of the United States covering financial audits.

(b) The cost of the audit shall be paid from funds appropriated by the board as part of the contract authorized pursuant to Section 5170.

(c) An audit report shall be prepared upon completion of the audit and shall be submitted to the board within 120 days after the close of the fiscal year.

SEC. 3. Section 5173 of the Business and Professions Code is amended to read:

5173. This article shall remain in effect only until January 1, 1995, and as of that date is repealed, unless a later enacted statute, which is chaptered before January 1, 1995, deletes or extends that date.

SEC. 4. By June 30, 1993, the State Board of Accountancy shall

prepare a report which shall be submitted to the appropriate policy committees of each house of the Legislature containing options and recommendations for funding future volunteer accounting services programs in this state. The report shall include, but not be limited to, alternative options for funding including the collection of voluntary contributions by the board from each applicant for a new or renewed license and from professional accounting associations.

CHAPTER 578

An act to amend Section 11624 of, and to add Sections 11624.08 and 11624.09 to, the Insurance Code, relating to insurance, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 5, 1991 Filed with Secretary of State October 7, 1991.]

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

SECTION 1. Section 11624 of the Insurance Code is amended to read:

11624. The plan shall contain:

(a) Standards for determining eligibility of applicants for insurance, including a requirement of a certificate of eligibility as provided in Section 11624.08, and in establishing those standards the following may be taken into consideration in respect to the applicant or any other person who may reasonably be expected to operate the applicant's automobile with his or her permission:

(1) His or her criminal conviction record.

(2) His or her record of suspension or revocation of a license to operate an automobile.

(3) His or her automobile accident records.

(4) His or her age and mental, physical and moral characteristics which pertain to his or her ability to safely and lawfully operate an automobile.

(5) The condition or use of the automobile.

(b) Procedures for making application for insurance, for apportionment of eligible applicants among the subscribing insurers and for appeal to the commissioner by persons who believe themselves aggrieved by the operation of the plan.

(c) A provision that the organization administering the plan shall notify the Department of Motor Vehicles regarding the name of each applicant for insurance who is rejected by the assigned risk plan and the statutory grounds for the rejection. The information contained in that notification shall be for the confidential use of the Department of Motor Vehicles.

(d) Rules and regulations governing the administration and operation of the plan.

(e) Provisions showing the basis upon which premium charges shall be made, and the manner of payment thereof. The plan shall include procedures for notifying within a reasonable time the agent, broker, or solicitor who obtained insurance under the plan for the insured of any nonpayment of premium to the insurer when notice of the nonpayment is sent to the insured pursuant to Section 662.

(f) Any other provisions as may be necessary to carry out the purpose of this article.

SEC. 2. Section 11624.08 is added to the Insurance Code, to read:

11624.08. The plan shall require a certificate of eligibility to accompany the application for coverage. The certificate shall indicate whether or not the applicant meets the criteria for the purchase of a good driver discount policy as set forth in Section 1861.025 and, if so, the name of the insurer and the insurer's representative that denied the applicant automobile insurance coverage. The certificate shall be signed by the applicant under penalty of perjury to verify its accuracy, and shall only be required with applications for personal lines automobile insurance through the plan. The agent or broker shall also be required to sign the certificate of eligibility indicating that he or she has reviewed the certificate for completeness.

SEC. 3. Section 11624.09 is added to the Insurance Code, to read:

11624.09. Upon a determination by the plan that a certificate of eligibility is defective due to an omission or mistake which is immaterial to determining the eligibility of the applicant for coverage, the plan shall immediately provide written notice of the defect or defects to the insured and to the agent or broker of record. The notice shall inform the applicant that he or she has 10 days from the postmark date of the notice to correct the defect and postmark the correction or missing information for return to the plan.

In the event that the defect is not corrected within that five day time period, the policy is void from inception. Providing a photocopy of the application or certificate denoting the specific defect or defects shall be adequate to comply with the requirement to specify the defects in the certificate.

For purposes of this section, failure to provide a required telephone number, time of day, producer number, producer signature, date or information that is omitted but can be determined by questions answered or information provided in other sections of the application or documents submitted as part of the application, shall be considered an omission or mistake immaterial to determining the eligibility of the applicant for the plan coverage. A certificate of eligibility that is submitted to the plan as to which the applicant did not demonstrate a good faith effort in completing or where the applicant has made a willful misrepresentation shall not be subject to this section. In the event that the defect is material to determining the eligibility of the applicant for coverage, the policy is void from inception.

SEC. 4. No reimbursement is required by this act pursuant to

Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

SEC. 5. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to ensure applicants for automobile liability insurance through the California Automobile Assigned Risk Plan are covered without the possibility of dangerous lapses in coverage, it is necessary that this act take effect immediately.

CHAPTER 579

An act to amend Section 146e of the Penal Code, and to amend Sections 1808.4 and 1810.2 of the Vehicle Code, relating to records.

[Approved by Governor October 5, 1991. Filed with Secretary of State October 7, 1991]

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

SECTION 1. Section 146e of the Penal Code is amended to read:

146e. Every person who maliciously, and with the intent to obstruct justice or the due administration of the laws, publishes, disseminates, or otherwise discloses the residence address or telephone number of any peace officer or nonsworn police dispatcher, or that of the spouse or children of these persons, whether living with them or not, while designating the peace officer or nonsworn police dispatcher or relative of these persons as such, without the authorization of the employing agency, is guilty of a misdemeanor.

SEC. 2. Section 1808.4 of the Vehicle Code is amended to read:

1808.4. The home address of the Attorney General, the State Public Defender, any Member of the Legislature, a judge or court commissioner, or the spouse or children of a judge or commissioner, whether living with that person or not, a district attorney, a public defender, any attorney employed by the Department of Justice, the office of the State Public Defender, or a county office of the district attorney or public defender, or a peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, or a nonsworn police dispatcher, or the spouse or children of

a peace officer or a nonsworn police dispatcher, whether living with the them or not, or any employee of the Department of Corrections, the Department of the Youth Authority, or the Prison Industry Authority specified in Section 20017.77 and 20017.79 of the Government Code, or the spouse or children of those employees, whether living with those employees or not, appearing in any record of the department is confidential, if the person requests confidentiality of that information, and shall not be disclosed to any person, except a court, a law enforcement agency, the State Board of Equalization, or any governmental agency to which, under any provision of law, information is required to be furnished from records maintained by the department. Any record of the department containing a confidential home address shall be open to public inspection, as provided in Section 1808, if the address is completely obliterated or otherwise removed from the record. The home address shall be withheld from public inspection for three years following termination of office or employment. The department shall inform any person who requests a confidential home address what agency the individual whose address was requested is employed by or the court at which the judge or court commissioner presides.

SEC. 3. Section 1810.2 of the Vehicle Code is amended to read:

1810.2. (a) The department may establish commercial requester accounts for individuals or organizations and issue requester codes for the purpose of obtaining information from the department's files, except as prohibited by Section 1808.21.

(b) Commercial requester account applications shall include the requester's name, address, type of business, a specific reason for requesting information, and the name of the person responsible for the business or firm.

(c) The department shall establish a commercial requester account when it determines that the applicant has a legitimate business need for the information requested and when the applicant files a bond in the amount of fifty thousand dollars ($50,000) and pays a two hundred fifty dollar ($250) filing fee. If the applicant does not request and is not issued a requester code permitting the applicant access to residence address information, only a filing fee of fifty dollars ($50) shall be required with the original application and each biennial renewal application.

(d) An individual requester code shall be issued for a period not to exceed five years and may be renewed upon application for additional periods not to exceed five years each.

(e) A requester code may be denied to any person unless the proposed use of the information from department records is related to legitimate business or commercial purposes of that person. A requester code may be canceled immediately if the requested information is used for a purpose other than the purpose for which the requester code was issued.

SEC. 4. No reimbursement is required by this act pursuant to

Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 580

An act to amend Section 25503.8 of, and to add Section 25503.85 to, the Business and Professions Code, relating to alcoholic beverages.

[Approved by Governor October 5, 1991 Filed with Secretary of State October 7, 1991.]

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

SECTION 1. The Legislature hereby finds and declares that the enactment of this act will provide nonprofit zoological societies with the ability to accept financial assistance for program funding from manufacturers of alcoholic beverages.

SEC. 2. Section 25503.8 of the Business and Professions Code is amended to read:

25503.8. (a) Notwithstanding any other provision of this chapter, the holder of a beer manufacturer's or winegrower's license may purchase advertising space and time from, or on behalf of, an on-sale retail licensee if all of the following conditions are met:

(1) The on-sale licensee is the owner of either of the following:

(A) A fully enclosed auditorium or theater with a fixed seating capacity in excess of 6,000 seats, at least 60 percent of the use of which is for plays or musical concerts, not including sporting events.

(B) A motion picture studio facility at which public tours are conducted for at least four million people per year.

(2) The advertising space or time is purchased only in connection with either of the following:

(A) In the case of a fully enclosed auditorium or theater, in connection with sponsorship of plays or musical concerts to be held on the premises of the auditorium or theater owned by the on-sale licensee.

(B) In the case of a motion picture studio facility, in connection with sponsorship of the public tours or special events conducted at the studio facility.

(3) The on-sale licensee serves other brands of beer or wine in addition to the brand manufactured by the beer manufacturer or produced by the winegrower purchasing the advertising space or

time.

(b) Any purchase of advertising space or time conducted pursuant to subdivision (a) shall be conducted pursuant to a written contract entered into by the holder of the beer manufacturer's or winegrower's license and the on-sale licensee, which contract shall not in any way involve the holder of a beer or wine wholesaler's license.

(c) Any holder of a beer manufacturer's license or winegrower's license who, through coercion or other means, induces a holder of a beer or wine wholesaler's license to fulfill those contractual obligations entered into pursuant to subdivision (a) or (b) shall be guilty of a misdemeanor and shall be punished by imprisonment in the county jail not exceeding six months, or by a fine in an amount equal to the entire value of the advertising space or time involved in the contract, plus ten thousand dollars ($10,000), or by both imprisonment and fine. The person shall also be subject to license revocation pursuant to Section 24200.

SEC. 3. Section 25503.85 is added to the Business and Professions Code, to read:

25503.85. (a) Notwithstanding any other provision of this chapter, the holder of a distilled spirits manufacturer's license, beer manufacturer's license, or winegrower's license may purchase advertising space and time from, or on behalf of, an on-sale retail licensee, that shall be limited to small notices, plaques, or signs that portray partial or full sponsorship or funding of educational programs, special fundraising and promotional events, improvements in capital projects, and the development of exhibits or facilities, if all of the following conditions are met:

(1) The on-sale licensee is a zoo or aquarium operated by a nonprofit organization that is accredited by the American Association of Zoological Parks and Aquariums.

(2) The advertising space or time is purchased only in connection with the sponsorship of activities that are held on the premises or grounds owned, leased, or controlled by the on-sale licensee.

(3) The on-sale licensee serves other brands of distilled spirits, beer, or wine within the same license category, in addition to the brand manufactured by the distilled spirits or beer manufacturer or produced by the winegrower purchasing the advertising space or time.

(b) Nothing in this section shall be construed to permit the purchase of billboards or bench advertisements as "advertising space."

(c) Any purchase of advertising space or time pursuant to subdivision (a) shall be accomplished by a written contract entered into by the holder of the distilled spirits manufacturer's, beer manufacturer's, or winegrower's license and the on-sale licensee. That contract shall not in any way involve the holder of a distilled spirits wholesaler's license, or beer and wine wholesaler's license.

(d) Any holder of a distilled spirits manufacturer's license, beer

manufacturer's license, or winegrower's license who, through coercion or other means, induces a holder of a distilled spirits wholesaler's license or beer and wine wholesaler's license to fulfill those contractual obligations entered into pursuant to subdivision (a) or (c) is guilty of a misdemeanor and shall be punished by imprisonment in the county jail for a period not to exceed six months, or by a fine in an amount equal to the entire value of the advertising space or time involved in the contract, plus ten thousand dollars ($10,000), or by both imprisonment and fine. The person shall also be subject to license revocation pursuant to Section 24200.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 581

An act to amend Sections 4008 and 42239.5 of the Education Code, relating to education.

[Approved by Governor October 5, 1991 Filed with Secretary of State October 7, 1991.]

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

SECTION 1. Section 4008 of the Education Code is amended to read:

4008. (a) At least two members of every county committee shall be elected from among the registered voters residing within each county supervisorial district in the county.

(b) If any change in the boundaries of a county supervisorial district in the county affects an incumbent member of the county committee, the affected member shall serve the remainder of his or her term of office and succeeding county committees shall be elected in accordance with subdivision (a).

SEC. 2. Section 42239.5 of the Education Code is amended to read:

42239.5. (a) For the 1989–90 fiscal year and each fiscal year thereafter, average daily attendance generated by elementary and secondary school pupils in voluntary Saturday school programs shall be eligible for summer school apportionments calculated pursuant to Section 42239 if those programs meet the following conditions:

(1) The instruction is in core academic areas specified in paragraph (2) of subdivision (d) of Section 42239, or as specified for summer school in Section 37252 and subdivision (a) of Section 37253, or in a course that provides credit toward high school graduation.

(2) The instruction is provided on Saturday and does not exceed 180 minutes.

(3) The average pupil/teacher ratio does not exceed 20:1.

(4) Attendance by the pupils is not required by the participating schools and districts.

(b) Any minor pupil whose parent or guardian informs the school district that the pupil is unable to attend a Saturday school program established pursuant to this section for religious reasons, or any pupil 18 years of age or older who states that he or she is unable to attend a Saturday school program established pursuant to this section for religious reasons, shall be given priority over pupils who have attended the Saturday school program for enrollment in the regular summer school program if he or she chooses to enroll in the regular summer school program.

(c) Participating districts shall encourage the participation of elementary and secondary schools with low academic performance.

(d) The Superintendent of Public Instruction shall develop and distribute a program advisory to school districts on this program option.

(e) This section shall become inoperative on June 30, 1996, and, as of January 1, 1997, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1997, deletes or extends the dates on which it becomes inoperative and is repealed.

CHAPTER 582

An act to add Section 410.42 to the Code of Civil Procedure, relating to contracts.

[Approved by Governor October 5, 1991. Filed with Secretary of State October 7, 1991.]

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

SECTION 1. Section 410.42 is added to the Code of Civil Procedure, to read:

410.42. The following provisions of a contract between the contractor and a subcontractor with principal offices in this state, for the construction of a public or private work of improvement in this state, shall be void and unenforceable:

(a) A provision which purports to require any dispute between the parties to be litigated, arbitrated, or otherwise determined outside this state.

(b) A provision which purports to preclude a party from

commencing such a proceeding or obtaining a judgment or other resolution in this state or the courts of this state.

For purposes of this section, "construction" means any work or services performed on, or materials provided for, a work of improvement, as defined in Section 3106 of the Civil Code, and for which a lien may be claimed pursuant to Section 3110 of the Civil Code (whether or not a lien is in fact claimed) or for which such a lien could be claimed but for Section 3109.

CHAPTER 583

An act to amend Section 66602 of, to add Section 66646.1 to, to add Chapter 5.5 (commencing with Section 66663) to Title 7.2 of, and to repeal Section 66667 of, the Government Code, relating to San Francisco Bay.

[Approved by Governor October 5, 1991. Filed with Secretary of State October 7, 1991.]

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

SECTION 1. Section 66602 of the Government Code is amended to read:

66602. The Legislature further finds and declares that certain water-oriented land uses along the bay shoreline are essential to the public welfare of the bay area, and that these uses include ports, water-related industries, airports, wildlife refuges, water-oriented recreation and public assembly, desalinization plants, upland dredged material disposal sites, and powerplants requiring large amounts of water for cooling purposes; that the San Francisco Bay Plan should make provision for adequate and suitable locations for all these uses, thereby minimizing the necessity for future bay fill to create new sites for these uses; that existing public access to the shoreline and waters of the San Francisco Bay is inadequate and that maximum feasible public access, consistent with a proposed project, should be provided.

SEC. 2. Section 66646.1 is added to the Government Code, to read:

66646.1. The Legislature finds that the State Water Resources Control Board and the California Regional Water Quality Control Board for the San Francisco Bay Region have the responsibility for establishing the beneficial uses of the waters of San Francisco Bay and setting water quality objectives to protect these uses, and have the primary responsibility for coordination, control, and enforcement of water quality in San Francisco Bay. The policies, decisions, advice, and authority of these boards should be the primary basis for the commission to carry out its water quality responsibilities in San Francisco Bay.

SEC. 3. Chapter 5.5 (commencing with Section 66663) is added to Title 7.2 of the Government Code, to read:

CHAPTER 5.5. SAN FRANCISCO BAY DREDGING

Article 1. Findings and Declarations

66663. The Legislature hereby finds and declares that because of the shallowness and high rate of sedimentation of the San Francisco Bay, dredging is essential to establish and maintain navigational channels for maritime commerce, which contributes substantially to the local, regional, and state economies, as well as for military navigation, flood control, recreational boating, and other public purposes.

66663.1. The Legislature further finds and declares that it is in the interest of the state to accomplish the following:

(a) Establish the relative importance of dredging needs so that the most important projects can be prioritized and accomplished quickly and unnecessary dredging activities are eliminated.

(b) Examine the potential for and promote using dredged materials as a resource, such as creating new wetlands and maintaining existing levees.

(c) Establish a broad range of environmentally sound and economically feasible disposal options in order to protect fish and wildlife resources and other beneficial uses of the bay and the ocean.

(d) Identify how disposal sites can best be managed and assure adequate monitoring of dredging and disposal activities.

66663.2. The Legislature further finds and declares that the United States Army Corps of Engineers, the Environmental Protection Agency, the State Water Resources Control Board and relevant California regional water quality control boards, and the San Francisco Bay Conservation and Development Commission have agreed to participate in a joint effort known as the Long Term Management Strategy (LTMS) to formulate a federal/state management strategy for bay dredging that concentrates federal efforts toward studying and possibly designating ocean disposal sites, and state efforts towards inbay and upland disposal options. This chapter is intended to reflect the commission's role in the Long Term Management Strategy, including the following:

(a) Evaluation of the use of upland, diked bayland, and delta areas for reuse of material dredged from the bay, regulatory constraints and opportunities involving upland disposal, and potential project sponsors and methods to implement those uses.

(b) Participation with the United States Geological Survey to make a detailed study of bay sediment processes affecting the need for bay dredging and the physical impacts of inbay disposal to augment the modeling work on bay sediment dynamics being performed by the State Water Resources Control Board and the United States Army Corps of Engineers.

(c) Participation in the studies of the economic and environmental impacts of the array of disposal options, and assistance in the identification of feasible and environmentally acceptable disposal sites for material dredged from the bay in the ocean, bay, upland, and delta areas, with particular attention given to identifying sites suitable for the reuse of dredged materials.

(d) Participation in the development of a program to implement the Long Term Management Strategy, including the prioritization of dredging needs, taking into account technical requirements, geographic factors, and economic investments affecting, and environmental impacts resulting from, maritime, recreational boating, and other dredging projects, and the monitoring and evaluation of (1) regulatory compliance, (2) the environmental effects of dredging and disposal, and (3) the effectiveness of designated disposal sites.

66663.3. The Legislature finds and declares that the commission should avoid duplication of effort in carrying out its role in the Long Term Management Strategy by making maximum use of information available from other portions of the strategy, the San Francisco Estuary Project, and other federal, state, and local agencies and private organizations.

Article 2. Definitions

66664. "Bay" means all portions of San Francisco Bay, as defined in subdivision (a) of Section 66610.

66664.1. "Commission" means the San Francisco Bay Conservation and Development Commission.

66664.2. "Delta" means the Sacramento-San Joaquin Delta, as described in Section 12220 of the Water Code.

66664.3. "Dredged material disposal" means the placement of material extracted by dredging.

66664.4. "Dredging" means the extraction of sand, mud, or other materials from San Francisco Bay, its tributaries, the delta, or coastal state waters.

66664.5. "Reuse" means the use of dredged material as a construction material or for some other beneficial purpose.

66664.6. "Upland disposal" means disposal of dredged material in areas not subject to tidal action.

Article 3. Implementation

66666. No provision of this chapter shall be construed to change any existing regulatory authority under Division 6 (commencing with Section 6001), Division 7 (commencing with Section 8600), or Division 13 (commencing with Section 21000) of the Public Resources Code, or the Porter-Cologne Water Quality Control Act (Division 7 (commencing with Section 13000) of the Water Code), all of which shall remain in full force and effect. Nothing in this

chapter shall be construed to remove or otherwise affect certifications, waivers of certifications, waste discharge requirements, or commission or State Lands Commission permits now or hereafter issued for dredging and disposal projects pursuant to this title or any other applicable provision of state or federal law.

66667. (a) The commission may impose a user fee not to exceed ten cents ($0.10) per cubic yard of material upon any public agency or person who proposes to dredge material from, or dispose of dredged material in, the area described in subdivisions (a) and (e) of Section 66610. As needed, the commission shall, after a public hearing, set the fee at an amount which it finds necessary to meet its cost for participating in the Long Term Management Strategy. Prior to setting the fee, the commission shall consult with affected public agencies or persons proposing to dredge in the area described in subdivisions (a) and (e) of Section 66610 in an attempt to obtain funding for these costs from alternative sources, including, but not limited to, the General Fund, federal agencies, and voluntary industry funding. To the extent alternative funding is accepted by the commission to carry out the purposes of this chapter, the commission shall reduce on a commensurate basis, or shall not impose, the user fee authorized by this section. In no event shall the sum of all of the fees collected by the commission pursuant to this section and the funding obtained from alternative sources exceed the sum of six hundred fifty thousand dollars ($650,000). Funds from fees and alternative sources shall be deposited in the Long Term Management Strategy Study Fund, which is hereby created in the State Treasury. All moneys in the Long Term Management Strategy Study Fund shall be available to the commission, upon appropriation by the Legislature, only for costs associated with its participation in the Long Term Management Strategy. The commission shall include a detailed accounting of funds imposed, collected, and expended in the annual report required by Section 66661.

(b) This section shall remain in effect only until January 1, 1998, and as of that date is repealed, unless a later enacted statute which is enacted before January 1, 1998, deletes or extends that date.

CHAPTER 584

An act to amend Section 12022.2 of the Penal Code, relating to crimes.

[Approved by Governor October 5, 1991 Filed with Secretary of State October 7, 1991.]

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

SECTION 1. Section 12022.2 of the Penal Code is amended to read:

12022.2. (a) Any person who, while armed with a firearm in the commission or attempted commission of any felony, has in his or her immediate possession ammunition for the firearm designed primarily to penetrate metal or armor, shall upon conviction of that felony or attempted felony, in addition and consecutive to the punishment prescribed for the felony or attempted felony, be punished by an additional term of three, four, or five years. The court shall order the middle term unless there are circumstances in aggravation or mitigation. The court shall state the reasons for its enhancement choice on the record at the time of the sentence.

(b) Any person who wears a body vest in the commission or attempted commission of a violent offense, as defined in subdivision (b) of Section 12021.1, shall, upon conviction of that felony or attempted felony, in addition and consecutive to the punishment prescribed for the felony or attempted felony, be punished by an additional term of one, two, or three years. The court shall order the middle term unless there are circumstances in aggravation or mitigation. The court shall state the reasons for its enhancement choice on the record at the time of the sentence.

(c) As used in this section, "body vest" means any bullet-resistant material intended to provide ballistic and trauma protection for the wearer.

CHAPTER 585

An act to amend Section 67380 of the Education Code, relating to postsecondary education.

[Approved by Governor October 5, 1991 Filed with Secretary of State October 7, 1991.]

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

SECTION 1. Section 67380 of the Education Code is amended to read:

67380. The governing board of each community college district, the Trustees of the California State University, the Board of Directors of the Hastings College of the Law, and the Regents of the University of California shall do all of the following:

(a) Require the appropriate officials at each campus within their respective jurisdictions to compile records of both of the following:

(1) All occurrences reported to campus police or safety authorities of, and arrests for, crimes which are committed on campus and which involve violence, hate violence, theft or destruction of property, illegal drugs, or alcohol intoxication.

(2) All occurrences of noncriminal acts of hate violence reported to, and for which a written report is prepared by, designated campus authorities.

(b) Any written record of a noncriminal act of hate violence shall include, but not be limited to, the following:

(1) A description of the act of hate violence.

(2) Victim characteristics.

(3) Offender characteristics, if known.

(c) Make the information compiled pursuant to subdivision (a) available on the request of any student or employee of, or applicant for admission to, any campus within their respective jurisdictions.

(d) Require the appropriate officials at each campus within their respective jurisdictions to prepare, prominently post, and copy for distribution on request a campus safety plan which sets forth all of the following: the availability and location of security personnel, methods for summoning assistance of security personnel, any special safeguards which have been established for particular facilities or activities, any actions taken in the preceding 18 months to increase safety, and any changes in safety precautions expected to be made during the next 24 months. For the purposes of this section, posting and distribution may be accomplished by including relevant safety information in a student handbook or brochure which is made generally available to students.

(e) Require the appropriate officials at each campus within their respective jurisdictions to report information compiled pursuant to subdivision (a) relating to hate violence to the governing board, trustees, board of directors, or trustees, as the case may be. The governing board, trustees, board of directors, or trustees, as the case may be, shall, upon collection of that information from all of the campuses within their jurisdiction, transmit a report containing a compilation of that information to the California Postsecondary Education Commission no later than January 1 of each year, commencing January 1, 1993. The commission shall submit a report to the Legislature and the Governor on July 1, 1993, and every two years thereafter, on the type and number of incidents of hate violence occurring in institutions of public higher education in California. It is the intent of the Legislature that the governing board of each community college district, the Trustees of the California State University, the Board of Directors of the Hastings College of the Law, and the Regents of the University of California establish guidelines for identifying and reporting occurrences of hate violence. It is the intent of the Legislature that the guidelines established by these institutions of higher education be as consistent with each other as possible. These guidelines shall be developed in consultation with the California Postsecondary Education Commission, the Department of Fair Employment and Housing, and the California Association of Human Rights Organizations. The report shall include, but not be limited to, the following:

(1) A comparison of incidents occurring in the year being reported to previous years for which there is hate violence data.

(2) To the extent possible, a comparison of incidents of hate violence occurring at community colleges, the California State

University, the Hastings College of the Law, and the University of California with incidents occurring at colleges and universities in other states and private universities in California.

(3) Findings and recommendations to the Legislature on the means of addressing hate violence at community colleges, the California State University, the Hastings College of the Law, and the University of California.

(f) For purposes of this section, "hate violence" means any act of physical intimidation or physical harassment, physical force or physical violence, or the threat of physical force or physical violence, that is directed against any person or group of persons, or the property of any person or group of persons because of the ethnicity, race, national origin, religion, sex, sexual orientation, disability, or political or religious beliefs of that person or group.

CHAPTER 586

An act to amend Sections 3480 and 3489 of the Public Resources Code, relating to used oil, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 5, 1991 Filed with Secretary of State October 7, 1991.]

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

SECTION 1. Section 3480 of the Public Resources Code is amended to read:

3480. (a) The board shall develop and administer a used oil grant program. The board shall adopt regulations for the administration of this chapter and make grant applications available.

(b) The board shall adopt emergency regulations for the administration of this chapter in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. The regulations shall be deemed to be emergency regulations, and shall be considered by the Office of Administrative Law as necessary for the immediate preservation of public peace, health and safety, or general welfare.

SEC. 2. Section 3489 of the Public Resources Code is amended to read:

3489. A local agency that establishes or otherwise expends grant funds provided pursuant to this chapter shall:

(a) Comply with the requirements in the regulations concerning notification and reporting.

(b) Provide adequate containment capacity for the containers or tanks used to store used oil in the case of a leak or spill.

(c) Provide sufficient security for centers to minimize vandalism and improper disposal of hazardous substances into used oil

containers.

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

In order to authorize the California Integrated Waste Management Board to adopt emergency regulations to administer the used oil grant program at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 587

An act to amend Section 4760 of, and to add Section 22651.8 to, the Vehicle Code, relating to vehicles.

[Approved by Governor October 5, 1991 Filed with Secretary of State October 7, 1991.]

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

SECTION 1. Section 4760 of the Vehicle Code is amended to read:

4760. (a) (1) Except as provided in subdivision (b), the department shall refuse to renew the registration of any vehicle if the registered owner or lessee has been mailed a notice of delinquent parking violation relating to standing or parking, the processing agency has filed or electronically transmitted to the department an itemization of unpaid parking penalties, including administrative fees pursuant to Section 40220, and the owner or lessee has not paid the parking penalty and administrative fee pursuant to Section 40211, unless he or she pays to the department, at the time of application for renewal, the full amount of all outstanding parking penalties and administrative fees, as shown by records of the department.

(2) When the department receives the full amount of all outstanding parking penalties and administrative fees pursuant to paragraph (1), it shall issue a receipt showing each parking penalty and administrative fee which has been paid, the processing agency for that penalty and fee, and a description of the vehicle involved in the parking violations. The receipt shall also state that, to reduce the possibility of impoundment under Section 22651 or immobilization under Section 22651.7 of the vehicle involved in the parking violation, the registered owner or lessee may transmit to that processing agency a copy or other evidence of the receipt.

(b) The department shall not refuse to renew the registration of any vehicle owned by a renter or lessor if the applicant provides the department with the abstract or notice of disposition of parking violation issued pursuant to subdivision (c) for clearing all

outstanding parking penalties and administrative fees as shown by the records of the department.

(c) The court or designated processing agency shall issue an abstract or notice of disposition of parking violation to the renter or lessor of a vehicle issued a notice of delinquent parking violation relating to standing or parking, if the renter or lessor provides the court or processing agency with the name, address, and driver's license number of the rentee or lessee at the time of occurrence of the parking violation.

SEC. 2. Section 22651.8 is added to the Vehicle Code, to read:

22651.8. For purposes of paragraph (1) of subdivision (i) of Section 22651 and Section 22651.7, "satisfactory evidence" includes, but is not limited to, a copy of a receipt issued by the department pursuant to subdivision (a) of Section 4760 for the payment of notices of parking violations appearing on the department's records at the time of payment. The processing agency shall, within 72 hours of receiving that satisfactory evidence, update its records to reflect the payments made to the department. If the processing agency does not receive the amount of the parking penalties and administrative fees from the department within four months of the date of issuance of that satisfactory evidence, the processing agency may revise its records to reflect that no payments were received for the notices of parking violation.

SEC. 3. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

SEC. 4. This act shall become operative on July 1, 1992.

CHAPTER 588

An act to add Section 17717.6 to the Education Code, relating to educational facilities.

[Approved by Governor October 5, 1991. Filed with Secretary of State October 7, 1991.]

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

SECTION 1. Section 17717.6 is added to the Education Code, to read:

17717.6. Notwithstanding Section 17717.7, the definition of "substantial enrollment" set forth in that section shall apply only to elementary and unified school districts. For a high school district, "substantial enrollment," for the purposes of Section 17717.7, means enrollment of at least 30 percent of district pupils, or 40 percent of pupils in the high school attendance area for which the school district is applying for new facilities. In addition, a high school district shall be deemed to have a substantial enrollment in multitrack year-round schools for purposes of Section 17717.7 if, at the option of the district, the entire high school to be constructed is to operate on a multitrack year-round basis.

SEC. 2. Notwithstanding any other provision of law, the buildings currently leased by the Mendocino-Lake Community College District, and located at 525 North Main Street in Lakeport, California, and at the Willits Center at 11 Marin Street in Willits Center, are exempt from Article 7 (commencing with Section 81130) and Article 8 (commencing with Section 81160) of Chapter 1 of Part 49 of the Education Code until the date upon which the construction of permanent facilities of the Lake County Center and the Willits Center of Mendocino College is complete or December 31, 1995, whichever date occurs first.

SEC. 3. Due to unique circumstances concerning the Mendocino-Lake Community College District, the Legislature finds and declares that a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution.

CHAPTER 589

An act to amend Sections 1536.1 and 1569.47 of the Health and Safety Code, relating to care facilities.

[Approved by Governor October 5, 1991. Filed with Secretary of State October 7, 1991.]

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

SECTION 1. Section 1536.1 of the Health and Safety Code is amended to read:

1536.1. (a) "Placement agency" means any county probation department, county welfare department, county social service department, county mental health department, county public guardian, general acute care hospital discharge planner or coordinator, conservator pursuant to Part 3 (commencing with Section 1800) of Division 4 of the Probate Code, conservator pursuant to Chapter 3 (commencing with Section 5350) of Part 1 of Division 5 of the Welfare and Institutions Code, and regional center for persons with developmental disabilities, which is engaged in finding homes or other places for placement of persons of any age for temporary or permanent care.

(b) A placement agency shall place individuals only in licensed community care facilities, facilities which are exempt from licensing under Section 1505 or if the facility satisfies subdivision (c) of Section 362 of the Welfare and Institutions Code, or with a foster family agency.

(c) No employee of a placement agency shall place, refer, or recommend placement of a person in a facility operating without a license, unless the facility is exempt from licensing under Section 1505 or unless the facility satisfies subdivision (c) of Section 362 of the Welfare and Institutions Code. Violation of this subdivision is a misdemeanor.

(d) Any employee of a placement agency who knows, or reasonably suspects, that a facility which is not exempt from licensing is operating without a license shall report the name and address of the facility to the department. Failure to report as required by this subdivision is a misdemeanor.

(e) The department shall investigate any report filed under subdivision (d). If the department has probable cause to believe that the facility which is the subject of the report is operating without a license, the department shall investigate the facility within 10 days after receipt of the report.

(f) A placement agency shall notify the appropriate licensing agency of any known or suspected incidents which would jeopardize the health or safety of residents in a community care facility. Reportable incidents include, but are not limited to, all of the following:

(1) Incidents of physical abuse.

(2) Any violation of personal rights.

(3) Any situation in which a facility is unclean, unsafe, unsanitary, or in poor condition.

(4) Any situation in which a facility has insufficient personnel or incompetent personnel on duty.

(5) Any situation in which residents experience mental or verbal abuse.

SEC. 2. Section 1569.47 of the Health and Safety Code is amended to read:

1569.47. (a) "Placement agency" means any county welfare department, county social service department, county mental health department, county public guardian, general acute care hospital discharge planner or coordinator, state-funded program or private agency providing placement or referral services, conservator pursuant to Part 3 (commencing with Section 1800) of Division 4 of the Probate Code, conservator pursuant to Chapter 3 (commencing with Section 5350) of Part 1 of Division 5 of the Welfare and Institutions Code, and regional center for persons with developmental disabilities which is engaged in finding homes or other places for the placement of elderly persons for temporary or permanent care.

(b) A placement agency shall place individuals only in licensed residential care facilities for the elderly or facilities which are exempt from licensing under Section 1569.145.

(c) No employee of a placement agency shall place, refer, or recommend placement of a person in a facility operating without a license, unless the facility is exempt from licensing under Section 1569.145. Violation of this subdivision is a misdemeanor.

(d) Any employee of a placement agency who knows, or reasonably suspects, that a facility which is not exempt from licensing is operating without a license shall report the name and address of the facility to the department. Failure to report as required by this subdivision is a misdemeanor.

(e) The department shall investigate any report filed under subdivision (d). If the department has probable cause to believe that the facility which is the subject of the report is operating without a license, the department shall investigate the facility within 10 days after receipt of the report.

(f) A placement agency shall notify the appropriate licensing agency of any known or suspected incidents which would jeopardize the health or safety of residents in a residential care facility for the elderly. Reportable incidents include, but are not limited to, all of the following:

(1) Incidents of physical abuse.

(2) Any violation of personal rights.

(3) Any situation in which a facility is unclean, unsafe, unsanitary, or in poor condition.

(4) Any situation in which a facility has insufficient personnel or

incompetent personnel on duty.

(5) Any situation in which residents experience mental or verbal abuse.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 590

An act to amend Sections 44244.1, 44332, 44424, and 44425 of, and to add Section 44440 to, the Education Code, relating to teacher credentialing.

[Approved by Governor October 5, 1991. Filed with Secretary of State October 7, 1991]

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

SECTION 1. Section 44244.1 of the Education Code is amended to read:

44244.1. A recommendation by the Committee of Credentials to deny, suspend, or revoke an application or a credential of a certified employee or to issue a private admonition may be adopted by the Commission on Teacher Credentialing without further proceedings if, after service of notice of the committee decision pursuant to Section 44244, the certified employee fails to give notice of intent to request an administrative hearing or if he or she gives notice of intent not to request an administrative hearing within 30 days. All proceedings before the commission to consider a recommendation for issuance of a private admonition shall be held in executive session. The commission shall make no disclosures concerning private admonitions except as required by Section 44438. For good cause shown, the commission may grant an additional 30 days for filing of a request for an administrative hearing.

SEC. 2. Section 44332 of the Education Code is amended to read:

44332. Except where that service is provided by a school district authorized to register certification documents pursuant to Section 44332.5, each county or city and county board of education may issue temporary certificates for the purpose of authorizing salary payments to certified employees whose credential applications are being processed or to personnel employed in children's centers or

other preschool educational programs whose permit applications are being processed. However, the individual must have demonstrated proficiency in basic reading, writing, and mathematic skills pursuant to the requirements of Section 44252.5. The applicant for the temporary certificate shall make a statement under oath that he or she has duly filed an application for a credential or permit together with the required fee and that, to the best of his or her knowledge, no reason exists why a certificate or permit should not be issued. The certificate or permit shall be valid for not more than one calendar year from the date of issuance.

The county or city and county board of education shall cancel the temporary certificate or permit immediately upon receipt of certification in writing from the commission that the applicant apparently does not possess adequate academic qualifications or apparently has a criminal record that would disqualify the applicant.

In no event shall a temporary certificate issued to a permit applicant be valid beyond the time that the commission either issues or denies the originally requested permit. In no event shall a temporary certificate issued to a credential applicant be valid beyond the time that the commission provides written notification to the county or city and county board of education that the applicant apparently does not possess adequate qualifications, that the commission has received facts that may cause denial of the application, or issues or denies the originally requested credential.

SEC. 3. Section 44424 of the Education Code is amended to read:

44424. Upon the conviction of the holder of any credential issued by the State Board of Education or the Commission on Teacher Credentialing of a violation, or attempted violation, of any one or more of Penal Code Sections 187 to 191, 192 insofar as said section relates to voluntary manslaughter, 193, 194 to 217.1, both inclusive, 220, 222, 244, 245, 261 to 267, both inclusive, 273a, 273f, 273g, 278, 285 to 288a, both inclusive, 424, 425, 484 to 488, both inclusive, insofar as said sections relate to felony convictions, 503 and 504, or of Penal Code Section 272, becoming final, the commission shall forthwith revoke the credential.

Upon a plea of nolo contendere that does not constitute a conviction pursuant to Section 1016 of the Penal Code, all credentials held by the respondent shall be suspended until a final disposition regarding those credentials is made by the commission. Any action that the commission is permitted to take following a conviction may be taken after the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence and the time for appeal has elapsed or the judgment of conviction has been affirmed on appeal, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code.

SEC. 4. Section 44425 of the Education Code is amended to read:

44425. Whenever the holder of any credential issued by the State Board of Education or the Commission on Teacher Credentialing has

been convicted of any sex offense as defined in Section 44010 or controlled substance offense as defined in Section 44011, the commission shall forthwith suspend the credential. If the conviction is reversed and the holder is acquitted of the offense in a new trial or the charges against him or her are dismissed, the commission shall forthwith terminate the suspension of the credential. When the conviction becomes final or when imposition of sentence is suspended, the commission shall forthwith revoke the credential.

Upon a plea of nolo contendere to any sex offense specified in Section 44010, which plea does not constitute a conviction pursuant to Section 1016 of the Penal Code, all credentials held by the respondent shall be suspended until a final disposition regarding those credentials is made by the commission. Any action that the commission is permitted to take following a conviction may be taken after the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence and the time for appeal has elapsed or the judgment of conviction has been affirmed on appeal, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code.

SEC. 5. Section 44440 is added to the Education Code, to read:

44440. (a) No applicant who is under review by the Commission on Teacher Credentialing shall be allowed to withdraw his or her application for a credential, permit, or other certification document without the written consent of the commission. The commission shall retain its authority over those applicants to proceed with the denial of the credential, permit, or other certification document upon any ground provided by law, or to enter an order denying the credential, permit, or other certification document upon any ground provided by law.

(b) The suspension or expiration of any credential, permit, or certification document, or its surrender without the written consent of the commission, shall not deprive the commission of its authority to do any of the following:

(1) Institute or continue a disciplinary proceeding against the holder of a credential, permit, or other certification document upon any ground provided by law.

(2) Enter an order suspending or revoking the credential, permit, or other certification document.

(3) Issue a private admonition to the holder of a credential, permit, or other certification document.

CHAPTER 591

An act to amend Section 56.10 of the Civil Code, relating to medical records.

[Approved by Governor October 5, 1991. Filed with Secretary of State October 7, 1991]

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

SECTION 1. Section 56.10 of the Civil Code is amended to read:

56.10. (a) No provider of health care shall disclose medical information regarding a patient of the provider without first obtaining an authorization, except as provided in subdivision (b) or (c).

(b) A provider of health care shall disclose medical information if the disclosure is compelled by any of the following:

(1) By a court pursuant to an order of that court.

(2) By a board, commission, or administrative agency for purposes of adjudication pursuant to its lawful authority.

(3) By a party to a proceeding before a court or administrative agency pursuant to a subpoena, subpoena duces tecum, notice to appear served pursuant to Section 1987 of the Code of Civil Procedure, or any provision authorizing discovery in a proceeding before a court or administrative agency.

(4) By a board, commission, or administrative agency pursuant to an investigative subpoena issued under Article 2 (commencing with Section 11180) of Chapter 2 of Part 1 of Division 3 of Title 2 of the Government Code.

(5) By an arbitrator or arbitration panel, when arbitration is lawfully requested by either party, pursuant to a subpoena duces tecum issued under Section 1282.6 of the Code of Civil Procedure, or any other provision authorizing discovery in a proceeding before an arbitrator or arbitration panel.

(6) By a search warrant lawfully issued to a governmental law enforcement agency.

(7) When otherwise specifically required by law.

(c) A provider of health care may disclose medical information as follows:

(1) The information may be disclosed to providers of health care or other health care professionals or facilities for purposes of diagnosis or treatment of the patient. This includes, in an emergency situation, the communication of patient information by radio transmission between emergency medical personnel at the scene of an emergency, or in an emergency medical transport vehicle, and emergency medical personnel at a health facility licensed pursuant to Chapter 2 (commencing with Section 1200) of Division 2 of the Health and Safety Code.

(2) The information may be disclosed to an insurer, employer,

health care service plan, hospital service plan, employee benefit plan, governmental authority, or any other person or entity responsible for paying for health care services rendered to the patient, to the extent necessary to allow responsibility for payment to be determined and payment to be made. If (A) the patient is, by reason of a comatose or other disabling medical condition, unable to consent to the disclosure of medical information and (B) no other arrangements have been made to pay for the health care services being rendered to the patient, the information may be disclosed to a governmental authority to the extent necessary to determine the patient's eligibility for, and to obtain, payment under a governmental program for health care services provided to the patient. The information may also be disclosed to another provider as necessary to assist the other provider in obtaining payment for health care services rendered by that provider to the patient.

(3) The information may be disclosed to any person or entity that provides billing, claims management, medical data processing, or other administrative services for providers or for any of the persons or entities specified in paragraph (2). However, no information so disclosed shall be further disclosed by the recipient in any way which would be violative of this part.

(4) The information may be disclosed to organized committees and agents of professional societies or of medical staffs of licensed hospitals, or to licensed health care service plans, or to professional standards review organizations, or to utilization and quality control peer review organizations as established by Congress in Public Law 97-248 in 1982, or to persons or organizations insuring, responsible for, or defending professional liability which a provider may incur, if the committees, agents, plans, organizations, or persons are engaged in reviewing the competence or qualifications of health care professionals or in reviewing health care services with respect to medical necessity, level of care, quality of care, or justification of charges.

(5) The information in the possession of any provider of health care may be reviewed by any private or public body responsible for licensing or accrediting the provider of health care. However, no patient identifying medical information may be removed from the premises except as expressly permitted or required elsewhere by law.

(6) The information may be disclosed to the county coroner in the course of an investigation by the coroner's office.

(7) The information may be disclosed to public agencies, clinical investigators, health care research organizations, and accredited public or private nonprofit educational or health care institutions for bona fide research purposes. However, no information so disclosed shall be further disclosed by the recipient in any way which would permit identification of the patient.

(8) A provider of health care that has created medical information as a result of employment-related health care services to an

employee conducted at the specific prior written request and expense of the employer may disclose to the employee's employer that part of the information which:

(A) Is relevant in a law suit, arbitration, grievance, or other claim or challenge to which the employer and the employee are parties and in which the patient has placed in issue his or her medical history, mental or physical condition, or treatment, provided it may only be used or disclosed in connection with that proceeding.

(B) Describes functional limitations of the patient that may entitle the patient to leave from work for medical reasons or limit the patient's fitness to perform his or her present employment, provided that no statement of medical cause is included in the information disclosed.

(9) Unless the provider is notified in writing of an agreement by the sponsor, insurer, or administrator to the contrary, the information may be disclosed to a sponsor, insurer, or administrator of a group or individual insured or uninsured plan or policy which the patient seeks coverage by or benefits from, if the information was created by the provider of health care as the result of services conducted at the specific prior written request and expense of the sponsor, insurer, or administrator for the purpose of evaluating the application for coverage or benefits.

(10) The information may be disclosed to a group practice prepayment health care service plan by providers which contract with the plan and may be transferred among providers which contract with the plan, for the purpose of administering the plan. Medical information may not otherwise be disclosed by a health care service plan except in accordance with the provisions of this part.

(11) Nothing in this part shall prevent the disclosure by a provider of health care to an insurance institution, agent, or support organization, subject to Article 6.6 (commencing with Section 791) of Part 2 of Division 1 of the Insurance Code, of medical information if the insurance institution, agent, or support organization has complied with all requirements for obtaining the information pursuant to Article 6.6 (commencing with Section 791) of Part 2 of Division 1 of the Insurance Code.

(12) The information relevant to the patient's condition and care and treatment provided may be disclosed to a probate court investigator engaged in determining the need for an initial conservatorship or continuation of an existent conservatorship, if the patient is unable to give informed consent.

(13) When the disclosure is otherwise specifically authorized by law.

CHAPTER 592

An act to amend Sections 11164 and 11200 of the Health and Safety Code, relating to controlled substances.

[Approved by Governor October 5, 1991. Filed with Secretary of State October 7, 1991]

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

SECTION 1. Section 11164 of the Health and Safety Code is amended to read:

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

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

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

(1) The prescription shall be signed and dated by the prescriber and shall contain the name of the person for whom the controlled substance is prescribed, the name and quantity of the controlled substance prescribed, and directions for use. With respect to prescriptions for controlled substances classified in Schedules III and IV, the signature, date, and information required by this paragraph shall be wholly written in ink or indelible pencil in the handwriting of the prescriber.

(2) In addition, the prescription shall contain the name, address, telephone number, category of professional licensure, and federal

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

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

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

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

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

(f) In addition to the prescriber's record required by Section 11190, any practitioner dispensing a controlled substance classified in Schedule II in accordance with subdivision (b) of Section 11158 shall prepare a written record thereof on the official forms issued by the Department of Justice, pursuant to Section 11161, and shall transmit the original to the Department of Justice in accordance with any rules that the department may adopt for completion and transmittal of the forms.

SEC. 2. Section 11200 of the Health and Safety Code is amended to read:

11200. No person shall dispense or refill a controlled substance

prescription more than six months after the date thereof or cause a prescription for a Schedule III or IV substance to be refilled in an amount in excess of a 120-day supply, unless renewed by the prescriber. No prescription for a Schedule II substance may be refilled.

CHAPTER 593

An act to add Section 31470.25 to the Government Code, relating to the County Employees Retirement Law of 1937.

[Approved by Governor October 5, 1991. Filed with Secretary of State October 7, 1991]

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

SECTION 1. Section 31470.25 is added to the Government Code, to read:

31470.25. (a) All sheriffs, undersheriffs, assistant sheriffs, chief deputy sheriffs, captains, lieutenants, sergeants, jailers, turnkeys, deputy sheriffs, bailiffs, constables, deputy constables, motorcycle officers, aircraft pilots, detectives, and investigators in the office of the district attorney, and marshals and all regularly appointed deputy marshals, who are first so employed on or after the operative date of this section in a county, are eligible. This section is an alternative to Section 31470.2.

(b) This section shall apply only in a county of the second class, as defined by Sections 28020 and 28022, as amended by Chapter 1204 of the Statutes of 1971.

(c) This section shall not be operative in a county unless and until the board of supervisors shall, by resolution adopted by a majority vote, makes this section operative in that county.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because this act is in accordance with the request of a local agency or school district which desired legislative authority to carry out the program specified in this act. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 594

An act to amend Sections 4035.1 and 4080.3 of, and to add Section 4052.7 to, the Business and Professions Code, relating to pharmacy.

[Approved by Governor October 5, 1991. Filed with Secretary of State October 7, 1991.]

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

SECTION 1. Section 4035.1 of the Business and Professions Code is amended to read:

4035.1. "Hospital pharmacy" means and includes a pharmacy, licensed by the board, located within any hospital, institution or establishment which maintains and operates organized facilities for the diagnosis, care and treatment of human illnesses to which persons may be admitted for overnight stay and which meets all of the requirements of this chapter and the rules and regulations of the board.

When, in the opinion of the board, a high standard of patient safety, consistent with good patient care, can be provided by the licensure of a pharmacy within a hospital, which does not meet all of the requirements for licensure as a hospital pharmacy, the board may waive any requirements pertaining to minimum equipment, minimum space, sanitary facilities, waiting area, or any other licensing requirements, provided that when the waiver of any of the above requirements is granted by the board the pharmaceutical services to be rendered by this pharmacy shall be limited to the furnishing of drugs to patients registered for treatment in the hospital, whether or not they are actually staying in the hospital, or to emergency cases under treatment in the hospital.

SEC. 2. Section 4052.7 is added to the Business and Professions Code, to read:

4052.7. Nothing in this chapter shall be construed to prohibit the storage of devices defined in Section 4031.5 in secure central or ward supply areas of a clinic, hospital, institution, or establishment holding a currently valid and unrevoked license or permit under Division 2 (commencing with Section 1200) of the Health and Safety Code, or of the California Rehabilitation Center established pursuant to Chapter 2 (commencing with Section 3300) of Division 3, or of any facility or institution for judicial commitments pursuant to Part 2 (commencing with Section 6250) of Division 6 of the Welfare and Institutions Code.

SEC. 3. Section 4080.3 of the Business and Professions Code is amended to read:

4080.3. When, in the opinion of the board, a high standard of patient safety, consistent with good patient care, can be provided by the licensure of a pharmacy or medical device retailer which does not meet all of the requirements for licensure as a pharmacy or

medical device retailer, the board may waive any requirements pertaining to minimum equipment, minimum space, sanitary facilities , waiting area, or any other licensing requirements.

CHAPTER 595

An act to amend Sections 29064, 29065, and 29088 of the Government Code, relating to county budgets.

[Approved by Governor October 5, 1991. Filed with Secretary of State October 7, 1991.]

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

SECTION 1. Section 29064 of the Government Code is amended to read:

29064. (a) On or before July 20th of each year the board, by formal action, shall approve the tabulation with the revisions, additions and changes in conformity with its judgment and conclusions as to a proper financial program for the budget period, whereupon it shall constitute the proposed budget for the period to which it is to apply.

(b) The board may make additions and changes to the proposed budget as it desires up to the time of adoption of the final budget, provided that any increase or inclusion of additional items shall not be made after the public hearing on the final budget unless proposed in writing and filed with the clerk of the board before the close of the public hearing or unless approved by the board by four-fifths vote.

SEC. 2. Section 29065 of the Government Code is amended to read:

29065. On or before August 10th of each year, as the board directs, the proposed budget document, and the required statements if separate, shall be reproduced so that each member of the general public who desires may obtain one. Copies of any changes made to the proposed budget pursuant to subdivision (b) of Section 29064 shall be made available to the public 72 hours prior to the budget hearings.

SEC. 3. Section 29088 of the Government Code is amended to read:

29088. After the conclusion of the hearing, and not later than August 30 of each year, and after making any revisions of, deductions from, or increases or additions to, the proposed budget it deems advisable during or after the public hearing, the board shall by resolution adopt the budget as finally determined. Increases or additions shall not be made after the public hearing, unless the items were proposed in writing and filed with the clerk of the board before the close of the public hearing or unless approved by the board by

four-fifths vote. The changes made pursuant to subdivision (b) of Section 29064 may be recorded as changes to the final budget.

The board may, by resolution, extend on a permanent basis or for a limited period the date specified by this section from August 30 to October 2.

CHAPTER 596

An act to add Section 1683 to the Business and Professions Code, and to add Section 1689.3 to the Civil Code, relating to dentistry.

[Approved by Governor October 5, 1991. Filed with Secretary of State October 7, 1991.]

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

SECTION 1. Section 1683 is added to the Business and Professions Code, to read:

1683. (a) Every dentist, dental health professional, or other licensed health professional who performs a service on a patient in a dental office shall identify himself or herself in the patient record by signing his or her name, or an identification number and initials, next to the service performed and shall date those treatment entries in the record. Any person licensed under this chapter who owns, operates, or manages a dental office shall ensure compliance with this requirement.

(b) Repeated violations of this section constitutes unprofessional conduct.

SEC. 2. Section 1689.3 is added to the Civil Code, to read:

1689.3. Any patient who contracts directly with a dental office or plan for services may rescind the contract or plan until midnight of the third business day after the day on which the patient signs the contract or plan. If services have been provided to the patient, the dental office shall be entitled to compensation for those services.

CHAPTER 597

An act to add Section 3704.7 to the Revenue and Taxation Code, relating to property taxation.

[Approved by Governor October 5, 1991. Filed with Secretary of State October 7, 1991.]

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

SECTION 1. Section 3704.7 is added to the Revenue and Taxation Code, to read:

3704.7. (a) In the case of a property that is the primary residence of the last known assessee, as indicated by either a valid homeowner's exemption on file with the county assessor in the name of the last known assessee, or the fact that the mailing address for the last tax bill is the same address as the property, the tax collector or his or her agent shall, in addition to any other notice required by this chapter, make a reasonable effort to contact in person, not more than 60 days or less than 10 days prior to the date of sale, the owner-occupant of that property. In the course of the personal contact, the tax collector, or his or her agent, shall inform the owner-occupant of the following:

(1) That the property, if not redeemed, shall be offered for sale at a public auction.

(2) His or her redemption rights pursuant to Part 7 (commencing with Section 4101).

(b) If the personal contact described in subdivision (a) is not made after reasonable efforts, the tax collector or his or her agent shall attempt to serve written notice, no less than five days prior to the date of the sale, with respect to the fact of the sale and the requirement that the tax collector be contacted immediately with respect to redemption of the property.

(c) The amount of the actual and reasonable costs incurred by the tax collector, or his or her agent, or both, in complying with the requirements of subdivisions (a) and (b), not to exceed one hundred dollars ($100), shall be added to the required amount for redemption of the property.

(d) No transfer of title shall be invalidated by reason of failure to comply with the requirements of this section.

SEC. 2. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 598

An act to amend Sections 22350, 22356, and 22358 of, and to add Section 22356.5 to, the Business and Professions Code, relating to process servers.

[Approved by Governor October 5, 1991. Filed with Secretary of State October 7, 1991.]

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

SECTION 1. Section 22350 of the Business and Professions Code is amended to read:

22350. (a) Any person who makes more than 10 services of process within this state during one calendar year shall file a verified certificate of registration as a process server with the county clerk of the county in which he or she resides or has his or her principal place of business.

(b) This chapter shall not apply to any of the following:

(1) Any sheriff, marshal, constable, or government employee who is acting in the course of his or her employment.

(2) An attorney or his or her employees.

(3) Any person who is specially appointed by a court to serve its process.

(4) An employee of a person who is registered under this chapter or a person who is acting as an independent contractor pursuant to the provisions of Section 22356.5, for a person registered under this chapter.

(5) A licensed private investigator or his or her employees.

(6) Any agent or employee of a nonprofit or fraternal organization who serves process on behalf of the organization and receives no fee for such service.

SEC. 2. Section 22356 of the Business and Professions Code is amended to read:

22356. A registrant shall be responsible at all times for the good conduct of his or her employees acting within the course or scope of their employment, and any person acting as an independent contractor within the course or scope of the agency relationship with the registrant.

SEC. 3. Section 22356.5 is added to the Business and Professions Code, to read:

22356.5. (a) In addition to the information required by subdivision (b) of Section 22360, any proof of service of any process which is signed by an independent contractor of a person registered under this chapter shall indicate that the proof of service was signed as an independent contractor of a registered process server. The proof of service shall additionally indicate whether the independent contractor is separately registered pursuant to this chapter, and if so, the county of registration and the number assigned pursuant to

Section 22355.

(b) No registrant shall permit any individual to sign any proof of service of any process as an independent contractor unless all of the following conditions are met:

(1) The independent contractor is performing pursuant to a written independent contractor agreement with the registrant.

(2) The independent contractor supplies proof of bonding under Section 22353, if applicable.

(3) The registrant exercises minimal supervision or control over the means of accomplishing the service of any process assigned by the registrant. The registrant may communicate a deadline for the service of process and request notification that such service has been completed.

(4) The registrant imposes no restrictions on the independent contractor's ability to perform services for others registered under this chapter.

(5) The independent contractor supplies proof that any required business licenses have been obtained.

(c) Persons not meeting the criteria of subdivision (b) shall be treated as employees of the registrant while persons meeting the criteria of subdivision (b) shall be treated as independent contractors.

(d) This section shall not preclude an independent determination of employment under any other provision of law.

SEC. 4. Section 22358 of the Business and Professions Code is amended to read:

22358. (a) A certificate of registration may be revoked or suspended whenever it has been determined that the registrant has made a service of process, including service completed by an employee or independent contractor of the registrant, which does not comply with the provisions of law governing the service of process in this state or constitutes an improper service of process not amounting to a violation of law.

(b) An investigation concerning the revocation or suspension of a certificate of registration may be commenced at any time at the option of the county clerk if the county clerk deems it to be appropriate. A complaint by any person who has alleged that he or she has been injured by a service of process shall be investigated by the public prosecutor. The investigation shall determine if the registrant complied with the provisions of law governing the service of process or constituted improper service of process not amounting to a violation of the law.

(c) If the public prosecutor determines from the investigation that cause may exist for the suspension or revocation of the certificate of registration, he or she shall set the matter for hearing and give notice to the registrant. That hearing shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Division 3 of Title 2 of the Government Code except that the decision of the administrative law judge shall be final. For the purposes of

those provisions, the public prosecutor shall be deemed to be the agency.

(d) If, after the hearing, the county clerk is notified after the decision has become effective that the administrative law judge has directed that the registrant's certificate be suspended or revoked, the county clerk shall forthwith suspend or revoke the certificate. If the certificate is revoked, the bond or cash deposit required by Section 22353 shall be forfeited to the county treasury subject to the right of a person to recover against the bond or cash deposit under Section 22357.

SEC. 5. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 599

An act to amend Sections 6317, 6425, 6426, 6427, 6428, 6429, 6430, 6431, and 6434 of the Labor Code, relating to occupational safety and health, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 5, 1991 Filed with Secretary of State October 7, 1991.]

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

SECTION 1. Section 6317 of the Labor Code is amended to read:

6317. If, upon inspection or investigation, the division believes that an employer has violated Section 25910 of the Health and Safety Code or any standard, rule, order, or regulation established pursuant to Chapter 6 (commencing with Section 140) of Division 1 of the Labor Code, or any standard, rule, order, or regulation established pursuant to this part, it shall with reasonable promptness issue a citation to the employer. Each citation shall be in writing and shall describe with particularity the nature of the violation, including a reference to the provision of the code, standard, rule, regulation, or order alleged to have been violated. In addition, the citation shall fix a reasonable time for the abatement of the alleged violation. The period specified for abatement shall not commence running until the date the citation or notice is received by certified mail and the certified mail receipt is signed, or if not signed, the date the return

is made to the post office. If the division officially and directly delivers the citation or notice to the employer, the period specified for abatement shall commence running on the date of the delivery.

A "notice" in lieu of citation may be issued with respect to violations found in an inspection or investigation which meet either of the following requirements:

(1) The violations do not have a direct relationship upon the health or safety of an employee.

(2) The violations do not have an immediate relationship to the health or safety of an employee, and are of a general or regulatory nature. A notice in lieu of a citation may be issued only if the employer agrees to correct the violations within a reasonable time, as specified by the division, and agrees not to appeal the finding of the division that the violations exist. A notice issued pursuant to this paragraph shall have the same effect as a citation for purposes of establishing repeat violations or a failure to abate. Every notice shall clearly state the abatement period specified by the division, that the notice may not be appealed, and that the notice has the same effect as a citation for purposes of establishing a repeated violation or a failure to abate. The employer shall indicate agreement to the provisions and conditions of the notice by his or her signature on the notice.

Under no circumstances shall a notice be issued in lieu of a citation if the violations are serious, repeated, willful, or arise from a failure to abate.

The director shall prescribe guidelines for the issuance of these notices.

The division may impose a civil penalty against an employer as specified in Chapter 4 (commencing with Section 6423) of this part. A notice in lieu of a citation may not be issued if the number of first instance violations found in the inspection (other than serious, willful, or repeated violations) is 10 or more violations.

No citation or notice shall be issued by the division for a given violation or violations after six months have elapsed since occurrence of the violation.

The director shall prescribe procedures for the issuance of a citation or notice.

The division shall prepare and maintain records capable of supplying an inspector with previous citations and notices issued to an employer.

SEC. 2. Section 6425 of the Labor Code is amended to read:

6425. Any employer, and every employee having direction, management, control, or custody of any employment, place of employment, or other employee, who willfully violates any occupational safety or health standard, order, or special order, or Section 25910 of the Health and Safety Code, and that violation caused death to any employee, or caused permanent or prolonged impairment of the body of any employee, shall, upon conviction, be punished by a fine of not more than seventy thousand dollars

($70,000), by imprisonment for not more than six months, or by both; except that if the conviction is for a violation committed after a first conviction of the person, punishment shall be by a fine not to exceed seventy thousand dollars ($70,000), but in no case less than thirty-five thousand dollars ($35,000), by imprisonment for not more than one year, or by both. Nothing in this section shall prohibit a prosecution under Section 192 of the Penal Code.

SEC. 3. Section 6426 of the Labor Code is amended to read:

6426. Whoever knowingly makes any false statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained pursuant to this division shall, upon conviction, be punished by a fine of not more than seventy thousand dollars ($70,000), or by imprisonment for not more than six months, or by both.

SEC. 4. Section 6427 of the Labor Code is amended to read:

6427. Any employer who violates any occupational safety or health standard, order, or special order, or Section 25910 of the Health and Safety Code, and the violation is specifically determined not to be of a serious nature, may be assessed a civil penalty of up to seven thousand dollars ($7,000) for each violation. Employers who do not have an operative injury prevention program shall receive no adjustment for good faith of the employer or history of previous violations as provided in paragraphs (3) and (4) of subdivision (c) of Section 6319.

SEC. 5. Section 6428 of the Labor Code is amended to read:

6428. Any employer who violates any occupational safety or health standard, order, or special order, or Section 25910 of the Health and Safety Code, if that violation is a serious violation, shall be assessed a civil penalty of up to seven thousand dollars ($7,000) for each violation. Employers who do not have an operative injury prevention program shall receive no adjustment for good faith of the employer or history of previous violations as provided in paragraphs (3) and (4) of subdivision (c) of Section 6319.

SEC. 6. Section 6429 of the Labor Code is amended to read:

6429. Any employer who willfully or repeatedly violates any occupational safety or health standard, order, or special order, or Section 25910 of the Health and Safety Code, may be assessed a civil penalty of not more than seventy thousand dollars ($70,000) for each violation, but in no case less than five thousand dollars ($5,000) for each willful violation.

SEC. 7. Section 6430 of the Labor Code is amended to read:

6430. (a) Any employer who fails to correct a violation of any occupational safety or health standard, order, or special order, or Section 25910 of the Health and Safety Code, within the period permitted for its correction shall be assessed a civil penalty of not more than seven thousand dollars ($7,000) for each day during which the failure or violation continues.

(b) Notwithstanding subdivision (a), for any employer who submits a signed statement affirming compliance with the

abatement terms pursuant to Section 6320, and is found upon a reinspection not to have abated the violation, any adjustment to the civil penalty based on abatement shall be rescinded and the additional civil penalty assessed for failure to abate shall not be adjusted for good faith of the employer or history of previous violations as provided in paragraphs (3) and (4) of subdivision (c) of Section 6319.

SEC. 8. Section 6431 of the Labor Code is amended to read:

6431. Any employer who violates any of the posting or recordkeeping requirements as prescribed by regulations adopted pursuant to Sections 6408 and 6410, or who fails to post any notice required by Section 3550, shall be assessed a civil penalty of up to seven thousand dollars ($7,000) for each violation.

SEC. 9. Section 6434 of the Labor Code is amended to read:

6434. The civil penalties provided for in this chapter shall not be assessed against employers that are governmental entities.

SEC. 10. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to comply with federal OSHA's state plan approval criteria and to continue to receive federal funding for the CAL/OSHA program, it is necessary for this act to take effect immediately.

CHAPTER 600

An act to amend Sections 3710.2, 3711, and 3722 of the Labor Code, relating to workers' compensation, and making an appropriation therefor.

[Approved by Governor October 5, 1991. Filed with Secretary of State October 7, 1991.]

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

SECTION 1. Section 3710.2 of the Labor Code is amended to read:

3710.2. Failure of an employer, officer, or anyone having direction, management, or control of any place of employment or of employees to observe a stop order issued and served upon him or her pursuant to Section 3710.1 is a misdemeanor punishable by imprisonment in the county jail not exceeding 60 days or by a fine not exceeding ten thousand dollars ($10,000), or both. Fines shall be paid into the State Treasury to the credit of the Uninsured Employers Fund. The director may also obtain injunctive and other relief from the courts to carry out the purposes of Section 3710.1. The failure to obtain a policy of workers' compensation insurance or a

certificate of consent to self-insure as required by Section 3700 is a misdemeanor in accordance with Section 3700.5.

SEC. 2. Section 3711 of the Labor Code is amended to read:

3711. (a) Every employer who applies for any license or for renewal of any license for a business issued pursuant to Section 37101 of the Government Code or Section 7284 of the Revenue and Taxation Code shall provide proof of valid workers' compensation insurance or other proof of compliance with the provisions of Section 3700.

(b) This section shall not apply if the applicant for any license or renewal of any license signs a certificate which reads as follows, or the wording of which has been approved by the Director of Industrial Relations:

"I certify that in the performance of work for which this license is issued I shall not employ any person in any manner so as to become subject to the workers' compensation laws of California."

If, after signing the certificate, the applicant for the license should become subject to the workers' compensation provisions of this code, he or she shall forthwith comply with the provisions of Section 3700 or his or her license is revoked.

(c) The director may, at any time, require any employer to furnish a written statement showing the name of his or her insurer or the manner in which the employer has complied with the provisions of Section 3700. Failure of the employer for a period of 10 days to furnish the written statement is prima facie evidence that he or she has failed or neglected in respect to the matters so required. The 10-day period shall not be construed to allow an uninsured employer, so found by the director, any extension of time from the application of the provisions of Section 3710.1. An insured employer who fails to respond to an inquiry respecting his or her status as to his or her workers' compensation security shall be assessed and required to pay a penalty of five hundred dollars ($500) to the director for deposit in the State Treasury to the credit of the Uninsured Employers Fund. In any prosecution under this article, the burden of proof is upon the defendant to show that he or she has secured the payment of compensation in one of the two ways set forth in Section 3700.

SEC. 3. Section 3722 of the Labor Code is amended to read:

3722. (a) At the time the stop order is issued and served pursuant to Section 3710.1, the director shall also issue and serve a penalty assessment order requiring the uninsured employer to pay to the director, for deposit in the State Treasury to the credit of the Uninsured Employers Fund, the sum of one thousand dollars ($1,000) per employee employed at the time the order is issued and served, as an additional penalty for being uninsured at that time.

(b) If upon the filing of a claim for compensation under this division the Workers' Compensation Appeals Board finds that any employer has not secured the payment of compensation as required by this division and finds the claim either noncompensable or

compensable, the appeals board shall mail a copy of their findings to the uninsured employer and the director, together with a direction to the uninsured employer to file a verified statement pursuant to subdivision (c).

After the time for any appeal has expired and the adjudication of the claim has become final, the uninsured employer shall be assessed and pay as a penalty either of the following:

(1) In noncompensable cases, two thousand dollars ($2,000) per each employee employed at the time of the claimed injury.

(2) In compensable cases, ten thousand dollars ($10,000) per each employee employed on the date of the injury.

(c) In order to establish the number of employees the uninsured employer had on the date of the claimed injury in noncompensable cases and on the date of injury in compensable cases, the employer shall submit to the director within 10 days after service of findings, awards, and orders of the Workers' Compensation Appeals Board a verified statement of the number of employees in his or her employ on the date of injury. If the employer fails to submit to the director this verified statement or if the director disputes the accuracy of the number of employees reported by the employer, the director shall use any information regarding the number of employees as the director may have or otherwise obtains.

(d) The maximum amount of penalties which may be assessed pursuant to this section is one hundred thousand dollars ($100,000). Payment shall be transmitted to the director for deposit in the State Treasury to the credit of the Uninsured Employers Fund.

(e) The Workers' Compensation Appeals Board may provide for a summary hearing on the sole issue of compensation coverage to effect the provisions of this section.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 601

An act to add Chapter 1.1 (commencing with Section 1180.101) to Part 6 of Division 1 of the Health and Safety Code, relating to primary care clinics, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 5, 1991. Filed with Secretary of State October 7, 1991.]

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

SECTION 1. Chapter 1.1 (commencing with Section 1180.101) is added to Part 6 of Division 1 of the Health and Safety Code, to read:

CHAPTER 1.1. PRIMARY CARE CLINIC REVOLVING FUND

Article 1. General Provisions

1180.101. The Legislature finds and declares all of the following:

(a) Clinics are valuable partners in the state's efforts to improve access to health services.

(b) Clinics have an established record of providing quality health services to medically uninsured persons at a reasonable cost.

(c) Clinics are experienced in serving the culturally diverse populations of this state and have developed comprehensive health services packages that meet special population needs.

(d) Clinics are major partners with all levels of government as contractors and grantees in programs that serve the poor, low income, minorities, and other target populations with special needs in both urban and rural areas of California.

(e) The state's grant and contract approval process are so complicated and time consuming that clinics are faced annually with severe cash-flow problems.

(f) The length of time required for the state to process and execute payment of claims submitted by clinics, creates severe cash-flow problems for the clinics.

(g) Clinics often have no choice but to borrow funds to cover operations pending receipt of state funds and the resulting interest payments reduce the amount of funds available for direct services to the needy population.

(h) Therefore, it is the intent of the Legislature that preliminary advance payment authority be established for the state department in order to alleviate clinics' cash-flow problems to the extent possible.

(i) It is the intent of the Legislature that a clinic revolving fund be established within the state department to expedite the payment process and thereby alleviate the cash-flow problems of clinics.

1180.105. As used in this chapter, "clinic" means a primary care clinic as defined in Section 1200.

1180.110. (a) The state department shall prepare and transmit to the Legislature a report of the state department's activities relating to the utilization of clinics to provide comprehensive health services pursuant to the following programs:

(1) Health of seasonal agricultural and migratory workers and their families program.

(2) American Indian health services program.

(3) Rural health services program.

(4) Grants-in-aid to clinic program.

(5) California health services corps program.

(b) A report shall be transmitted to the Legislature by July 1, 1992, and by July 1 of every fourth year thereafter.

(c) The report shall also include any grant funds expended and the resources allocated to the programs by the state department, including staff, travel, and support services.

(d) The report shall reflect activities, resources, and expenditures by fiscal year.

Article 2. The Clinic Revolving Fund

1180.121. The Clinic Revolving Fund of the State Department of Health Services is hereby established for the purpose of expediting preliminary advance payments as authorized pursuant to Article 3 (commencing with Section 1180.131) and to reimburse clinics that are grantees or contractors for services rendered under grants or contracts issued pursuant to this part and Part 6.9 (commencing with Section 1189.101).

1180.122. (a) Notwithstanding Section 16400 of the Government Code or any other provision of law, the department may, to the extent local assistance appropriations are made by the Legislature for programs set forth in this part and Part 6.9 (commencing with Section 1189.101), without at the time furnishing vouchers or itemized statements, draw up to 50 percent of the funds appropriated for the purposes of the Clinic Revolving Fund, for purposes of preliminary advance payments pursuant to Article 3 (commencing with Section 1180.131).

(b) The purpose of the Clinic Revolving Fund does not include expenses related to departmental administrative expenses, departmental travel expenses, departmental travel expense advances, or other departmental administrative costs.

1180.123. In lieu of actually withdrawing revolving fund moneys from the State Treasury, the Controller, upon the request of the State Department of Health Services, shall apply and credit the amount of the Clinic Revolving Fund, or any portion thereof, as repayment and return of any existing funds in the revolving fund to the appropriation for which it was drawn by the state department.

1180.124. The state department shall remain fully accountable for the Clinic Revolving Fund. All disbursements shall be substantiated by vouchers filed with the Controller. Disbursements may be

reported, substantiated by vouchers, from time to time to the Controller in connection with claims for reimbursements of the revolving fund. At any time, upon the demand of the Department of Finance or the Controller, the revolving fund shall be accounted for and substantiated by vouchers and itemized statements submitted to the Controller.

Article 3. Preliminary Advance Payments

1180.131. Notwithstanding any provision of law to the contrary, the state department may, to the extent funds are available, provide for advance payments for services to be performed under pending grant agreements or contracts with clinics pursuant to this part, at the time that the notice of award is issued if all of the following conditions are met:

(a) The request for application or the request for proposals contains the terms and conditions under which advance payment may be received pursuant to this section.

(b) That the total amount of the advance shall not exceed 25 percent of the amount of the proposed award, including any advance payments provided under authority of any other provision of law.

(c) That the terms and conditions of the request for application or the request for proposal, specifies that the grantee shall repay the full amount of the advance if the grant or the contract is not finally approved.

(d) That the state department has evaluated the financial stability of the clinic and found it to be reasonably financially sound.

(e) That advance payments be made only to those nonprofit agencies which request an advance in writing.

(f) That the application or proposal contains the terms and conditions set forth in the request for application or the request for proposal.

(g) That the application or proposal is signed by an authorized person representing the clinic.

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

In order to provide needed primary health care services, it is necessary that this act take effect immediately.

CHAPTER 602

An act to amend Sections 1875, 1875.3, 1875.6, and 2054 of, and to add Section 2058 to, the Insurance Code, and to add Section 1170.78 to the Penal Code, relating to insurance.

[Approved by Governor October 5, 1991 Filed with Secretary of State October 7, 1991.]

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

SECTION 1. In enacting this act, the Legislature finds and declares the following:

(a) California has recently been ravaged by a number of tragic arson set fires.

(b) Fires, especially those set by arson, place in jeopardy many lives of both the victims of arson fires and the firefighters who must suppress the fires.

(c) Arson fires destroy millions of dollars in property, both inhabitable and forest land.

(d) Arson fires set throughout California in 1990 resulted in a tremendous number of insurance claims, resulting in the pay out of hundreds of millions of dollars in claims, directly impacting the cost of residential insurance and resulting in an increase in the cost of residential insurance for all Californians.

SEC. 2. Section 1875 of the Insurance Code is amended to read:

1875. As used in this chapter:

(a) "Authorized agency" means any of the following officers or agencies, or their duly authorized representatives, when investigating or prosecuting arson in connection with a specific fire: the State Fire Marshal, the Director of the Department of Forestry and Fire Protection, the chief of any city or county fire department, the chief of any fire protection district, the Attorney General, any district attorney, or any peace officer, the Department of Insurance, and any federal agency.

(b) "Insurer" means any insurer admitted to write, or otherwise issuing, fire insurance covering property in this state and includes its agents, servants, investigators, and adjusters. "Insurer" includes the California FAIR Plan.

SEC. 3. Section 1875.3 of the Insurance Code is amended to read:

1875.3. An authorized agency shall notify the insurer, if known, and at the expense of the insurer, whenever it has reason to believe that a fire loss was not accidentally caused. The agency shall also release to the claimant's insurer specific information regarding the fire loss at the earliest time possible unless it determines that an ongoing investigation would be jeopardized.

SEC. 4. Section 1875.6 of the Insurance Code is amended to read:

1875.6. Any authorized agency that receives any information furnished as required by this article shall not make the information

public until the time that its release is required in connection with a criminal or civil proceeding.

SEC. 5. Section 2054 of the Insurance Code is amended to read:

2054. In the absence of any change increasing the risk without the consent of the insurer or of fraud on the part of the insured, and except as provided in Sections 2056 and 2058, the insurer under such a valued policy shall pay losses as follows:

(a) In case of a total loss, the whole amount insured upon the insured's interest in such building or structure, as stated in the policy and upon which the insurers have received a premium.

(b) In case of a partial loss the full amount of the partial loss.

(c) In case there are two or more policies covering the insured's interest, each policy shall contribute pro rata to the payment of such whole or partial loss.

SEC. 6. Section 2058 is added to the Insurance Code, to read:

2058. Notwithstanding any other provision of law, if a loss arising out of fire is rebuilt or replaced, an insured covered by a valued policy shall receive full payment for the loss up to the face amount of the policy. If the loss is not rebuilt or replaced, an insured covered by a valued policy shall receive either the replacement value of the loss or the face amount of the policy, whichever is less. As used in this section, "valued policy" has the meaning set forth in Section 412.

This section applies only to valued policies issued or renewed on and after July 1, 1992.

SEC. 7. Section 1170.78 is added to the Penal Code, to read:

1170.78. Upon a conviction of a violation of Section 451, the fact that the person committed the offense in retaliation against the owner or occupant of the property or structure burned, or against one believed by the person to be the owner or occupant of the property or structure burned, for any eviction or other legal action taken by the owner or occupant, or believed owner or occupant, shall be a circumstance in aggravation of the crime in imposing a term under subdivision (b) of Section 1170.

CHAPTER 603

An act to amend Sections 17274 and 24436.5 of the Revenue and Taxation Code, relating to taxation.

[Approved by Governor October 5, 1991 Filed with Secretary of State October 7, 1991.]

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

SECTION 1. Section 17274 of the Revenue and Taxation Code is amended to read:

17274. (a) Notwithstanding any other provisions in this part to the contrary, in the case of a taxpayer who derives rental income

from substandard housing located in this state, no deduction shall be allowed for interest, taxes, depreciation, or amortization paid or incurred in the taxable year with respect to the substandard housing, except as provided in subdivision (e).

(b) "Substandard housing" means housing which (1) has been determined by a state or local government regulatory agency to violate state law or local codes dealing with health, safety, or building; and (2) after written notice of violation by the regulatory agency, specifying the applicability of this section, has not been brought to a condition of compliance within six months after the date of the notice or the time prescribed in the notice, whichever period is later; or on which good faith efforts for compliance have not been commenced, as determined by the regulatory agency. The regulatory agency may, for good cause shown, extend the compliance date prescribed in a violation notice.

(c) When the period specified in subdivision (b) has expired without compliance, the regulatory agency shall mail to the taxpayer a notice of noncompliance. The notice of noncompliance shall be in such form and shall include such information as may be prescribed by the Franchise Tax Board, shall be mailed by certified mail to the taxpayer at the taxpayer's last known address, and shall advise the taxpayer (1) of an intent to notify the Franchise Tax Board of the noncompliance within 10 days unless an appeal is filed, (2) where an appeal may be filed, and (3) of a general description of the tax consequences of the filing with the Franchise Tax Board. Appeals shall be made to the same body and in the same manner as appeals from other actions of the regulatory agency. If no appeal is made within 10 days or after disposition of the appeal if the regulatory agency is sustained, the regulatory agency shall notify, in writing, the Franchise Tax Board of the noncompliance. The notice of noncompliance shall contain the legal description or the lot and block numbers of the real property, the assessor's parcel number, and the name of the owner of record as shown on the latest equalized assessment roll. In addition, the regulatory agency shall, at the same time as notification of the notice of noncompliance is sent to the Franchise Tax Board, record a copy of the notice of noncompliance in the office of the recorder for the county in which the substandard housing is located that includes a statement of tax consequences that may be determined by the Franchise Tax Board. However, the failure to record a notice with the county recorder shall not relieve the liability of any taxpayer nor shall it create any liability on the part of the regulatory agency. The regulatory agency may charge the taxpayer a fee in an amount not to exceed the regulatory agency's costs incurred in recording any notice of noncompliance or issuing any release of that notice. The notice of compliance shall be recorded and shall serve to expunge the notice of noncompliance. The notice of compliance shall contain the same recording information required for the notice of noncompliance. No deduction by the taxpayer, or any other taxpayer who obtains title to the property subsequent to

the recordation of the notice of noncompliance, shall be allowed for the items provided in subdivision (a) from the date of the notice of noncompliance until the date the regulatory agency determines that the substandard housing has been brought to a condition of compliance. The regulatory agency shall mail to the Franchise Tax Board and the taxpayer a notice of compliance, which notice shall be in such form and include such information as may be prescribed by the Franchise Tax Board. In the event the period of noncompliance does not cover an entire taxable year, the deductions shall be denied at the rate of $\frac{1}{12}$ for each full month during the period of noncompliance.

If the property is owned by more than one owner or if recorded title is in the name of a fictitious owner, the notice requirements provided in subdivision (b) and this subdivision shall be satisfied for each owner if the notices are mailed to one owner or to the fictitious name owner at the address appearing on the latest available property tax bill. However, notices made pursuant to this subdivision shall not relieve the regulatory agency from furnishing taxpayer identification information required to implement this section to the Franchise Tax Board.

(d) For the purposes of this section, a notice of noncompliance shall not be mailed by the regulatory agency to the Franchise Tax Board if any of the following occur:

(1) The rental housing was rendered substandard solely by reason of earthquake, flood, or other natural disaster except where the condition remains for more than three years after the disaster.

(2) The owner of the rental housing has secured financing to bring the housing into compliance with those laws or codes which have been violated, causing the housing to be classified as substandard, and has commenced repairs or other work necessary to bring the housing into compliance.

(3) The owner of rental housing which is not within the meaning of housing accommodation as defined by subdivision (d) of Section 35805 of the Health and Safety Code has done both of the following:

(A) Attempted to secure financing to bring the housing into compliance with those laws or codes which have been violated, causing the housing to be classified as substandard.

(B) Been denied that financing solely because the housing is located in a neighborhood or geographical area in which financial institutions do not provide financing for rehabilitation of any such housing.

(e) This section does not apply to deductions from income derived from property rendered substandard solely by reason of a change in applicable state or local housing standards unless the violations cause substantial danger to the occupants of the property, as determined by the regulatory agency which has served notice of violation pursuant to subdivision (b).

(f) The owner of rental housing found to be in noncompliance shall, upon total or partial divestiture of interest in the property,

immediately notify the regulatory agency of the name and address of the person or persons to whom the property has been sold or otherwise transferred and the date of the sale or transference.

(g) By July 1 of each year, the regulatory agency shall report to the appropriate legislative body of its jurisdiction all of the following information, for the preceding calendar year, regarding its activities to secure code enforcement, which shall be public information:

(1) The number of written notices of violation issued for substandard dwellings under subdivision (b).

(2) The number of violations complied with within the period prescribed in subdivision (b).

(3) The number of notices of noncompliance issued pursuant to subdivision (c).

(4) The number of appeals from those notices pursuant to subdivision (c).

(5) The number of successful appeals by owners.

(6) The number of notices of noncompliance mailed to the Franchise Tax Board pursuant to subdivision (c).

(7) The number of cases in which a notice of noncompliance was not sent pursuant to subdivision (d).

(8) The number of extensions for compliance granted pursuant to subdivision (b) and the mean average length of the extensions.

(9) The mean average length of time from the issuance of a notice of violation to the mailing of a notice of noncompliance to the Franchise Tax Board where the notice is actually sent to the Franchise Tax Board.

(10) The number of cases where compliance is achieved after a notice of noncompliance has been mailed to the Franchise Tax Board.

(11) The number of instances of disallowance of tax deductions by the Franchise Tax Board resulting from referrals made by the regulatory agency. This information may be filed in a supplemental report in succeeding years as it becomes available.

SEC. 2. Section 24436.5 of the Revenue and Taxation Code is amended to read:

24436.5. (a) In the case of a taxpayer who derives rental income from substandard housing located in this state, no deductions for interest, depreciation, taxes, or amortization under Section 24343, 24344, 24345, 24349, or 24354.2 shall be allowed which relate to such substandard housing.

(b) Substandard housing means housing which (1) has been determined by a state or local government regulatory agency to violate state law or local codes dealing with health, safety, or building; and (2) after written notice of violation by the regulatory agency, specifying the applicability of this section, has not been repaired or brought to a condition of compliance within six months after the date of the notice or the time prescribed in the notice, whichever period is longest; or on which good faith efforts for compliance have not been commenced, as determined by the

regulatory agency. The regulatory agency may, for good cause shown, extend the compliance date prescribed in a violation notice.

(c) When the period specified in subdivision (b) has expired without compliance, the government regulatory agency shall mail to the taxpayer a notice of noncompliance. The notice of noncompliance shall be in such form and shall include such information as may be prescribed by the Franchise Tax Board, shall be mailed by certified mail to the taxpayer at his last known address, and shall advise the taxpayer (1) of an intent to notify the Franchise Tax Board of such noncompliance within 10 days unless an appeal is filed, (2) where an appeal may be filed, and (3) a general description of the tax consequences of such filing with the Franchise Tax Board. Appeals shall be made to the same body and in the same manner as appeals from other actions of the regulatory agency. If no appeal is made within 10 days or after disposition of the appeal if the regulatory agency is sustained, the regulatory agency shall notify, in writing, the Franchise Tax Board of such noncompliance. The notice of noncompliance shall contain the legal description or the lot and block numbers of the real property, the assessor's parcel number, and the name of the owner of record as shown on the latest equalized assessment roll. In addition, the regulatory agency shall, at the same time as notification of the notice of noncompliance is sent to the Franchise Tax Board, record a copy of the notice of noncompliance in the office of the recorder for the county in which the substandard housing is located that includes a statement of tax consequences that may be determined by the Franchise Tax Board. However, the failure to record a notice with the county recorder shall not relieve the liability of any taxpayer nor shall it create any liability on the part of the regulatory agency. The regulatory agency may charge the taxpayer a fee in an amount not to exceed the regulatory agency's costs incurred in recording any notice of noncompliance or issuing any release of that notice. The notice of compliance shall be recorded and shall serve to expunge the notice of noncompliance. The notice of compliance shall contain the same recording information required for the notice of noncompliance. No deduction by the taxpayer, or any other taxpayer who obtains title to the property subsequent to the recordation of the notice of noncompliance, shall be allowed for the items provided in subdivision (a) from the date of the notice of noncompliance until the date the regulatory agency determines that the substandard housing has been brought to a condition of compliance. The regulatory agency shall mail to the Franchise Tax Board and the taxpayer a notice of compliance, which notice shall be in such form and include such information as may be prescribed by the Franchise Tax Board. In the event the period of noncompliance does not cover an entire income year, the deductions shall be denied at the rate of $\frac{1}{12}$ for each full month during the period of noncompliance.

If the property is owned by more than one owner or the recorded title is in the name of a fictitious owner, the notice requirements

provided in subdivision (b) and this subdivision shall be satisfied for each owner if the notices are mailed to one owner or to the fictitious name owner at the address appearing on the latest available property tax bill. However, notices made pursuant to this subdivision shall not relieve the regulatory agency from furnishing taxpayer identification information required to implement this section to the Franchise Tax Board.

(d) For the purposes of this section, a notice of noncompliance shall not be mailed by the regulatory agency to the Franchise Tax Board if any of the following occur:

(1) The rental housing was rendered substandard solely by reason of earthquake, flood or other natural disaster except where such condition remains for more than three years after the disaster.

(2) The owner of the rental housing has secured financing to bring such housing into compliance with those laws or codes which have been violated, causing such housing to be classified as substandard, and has commenced repairs or other work necessary to bring such housing into compliance.

(3) The owner of rental housing which is not within the meaning of housing accommodation, as defined in subdivision (d) of Section 35805 of the Health and Safety Code, has done both of the following:

(A) Attempted to secure financing to bring such housing into compliance with those laws or codes which have been violated, causing such housing to be classified as substandard.

(B) Been denied that financing solely because such housing is located in a neighborhood or geographical area in which financial institutions do not provide financing for rehabilitation of any such housing.

(e) The provisions of this section do not apply to deductions from income derived from property rendered substandard solely by reason of a change in applicable state or local housing standards unless such violations cause substantial danger to the occupants of such property, as determined by the regulatory agency which has served notice of violation pursuant to subdivision (b).

(f) The owner of rental housing found to be in noncompliance shall, upon total or partial divestiture of interest in such property, immediately notify the regulatory agency of the name and address of the person or persons to whom the property has been sold or otherwise transferred and the date of the sale or transference.

(g) By July 1 of each year, the regulatory agency shall report to the appropriate legislative body of its jurisdiction all of the following information, for the preceding calendar year, regarding its activities to secure code enforcement, which shall be public information:

(1) The number of written notices of violation issued for substandard dwellings under subdivision (b).

(2) The number of violations complied with within the period prescribed in subdivision (b).

(3) The number of notices of noncompliance issued pursuant to subdivision (c).

(4) The number of appeals from those notices pursuant to subdivision (c).

(5) The number of successful appeals by owners.

(6) The number of notices of noncompliance mailed to the Franchise Tax Board pursuant to subdivision (c).

(7) The number of cases in which a notice of noncompliance was not sent pursuant to the provisions of subdivision (d).

(8) The number of extensions for compliance granted pursuant to subdivision (b) and the mean average length of such extensions.

(9) The mean average length of time from the issuance of a notice of violation to the mailing of a notice of noncompliance to the Franchise Tax Board where such notice is actually sent to the Franchise Tax Board.

(10) The number of cases where compliance is achieved after a notice of noncompliance has been mailed to the Franchise Tax Board.

(11) The number of instances of disallowance of tax deductions by the Franchise Tax Board resulting from referrals made by the regulatory agency. This information may be filed in a supplemental report in succeeding years as it becomes available.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 604

An act to add Section 24324 to the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor October 5, 1991. Filed with Secretary of State October 7, 1991]

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

SECTION 1. Section 24324 is added to the Revenue and Taxation Code, to read:

24324. (a) Gross income does not include any contribution to the capital of the taxpayer.

(b) (1) For purposes of this section, "contribution to the capital of the taxpayer" includes any amount of money or other property received from any person (whether or not a shareholder) by a regulated public utility that provides electric energy, gas (through a local distribution system or transportation by pipeline), water, or

sewerage disposal services if all of the following apply:

(A) The amount is contribution in aid of construction.

(B) Where the contribution is in property that is other than electric energy, gas steam, water, or sewerage disposal facilities, the amount meets the requirements of the expenditure rule of paragraph (2).

(C) The amounts (or any property acquired or constructed with those amounts) are not included in the taxpayer's rate base for ratemaking purposes.

(2) An amount meets the requirements of this paragraph if all of the following apply:

(A) An amount equal to that amount is expended for the acquisition or construction of tangible property described in Section 1231(b) of the Internal Revenue Code and both of the following apply:

(i) The expenditure was the purpose motivating the contribution.

(ii) The property is used predominantly in the trade or business of furnishing electric energy, gas, steam, water, or sewerage disposal services.

(B) The expenditure referred to in subparagraph (A) occurs before the end of the second income year after the income year in which that amount was received.

(C) Accurate records are kept of the amount contributed and expenditures made on the basis of the project for which the contribution was made and on the basis of the year of contribution or expenditure.

(3) For purposes of this section:

(A) "Contribution in aid of construction" does not include amounts paid as customer connection fees (including amounts paid to connect the customer's line to an electric line, a gas main, a steam line, or a main water or sewer line) and amounts paid as service charges for starting or stopping services.

(B) "Contribution in aid of construction" includes amounts received by a regulated public utility from a contributor to recover the federal tax imposed upon contributions in aid of construction, provided that the method used to recover the tax is authorized by Public Utilities Commission Decision 87-09-026.

(C) "Predominantly" means 80 percent or more.

(D) "Regulated public utility" means a regulated public utility as defined by Section 7701(a)(33) of the Internal Revenue Code, except that it does not include any utility which is not required to provide electric energy, gas, water, or sewerage disposal services to members of the general public (including, in the case of a gas transmission utility, the provision of gas services by sale for resale to the general public) in its service area.

(4) Notwithstanding any other provision of this part, no deduction or credit shall be allowed for, or by reason of, the expenditure which constitutes a contribution in aid of construction to which this section applies. The adjusted basis of any property acquired with

contributions in aid of construction to which this section applies shall be zero.

(c) This section shall apply to contributions in aid of construction made on or after January 1, 1977, and before January 1, 1992.

SEC. 2. The Legislature finds and declares that Section 1 of this act is declaratory of the legislative intent of existing law, and is consistent with past and present Franchise Tax Board and industry practice, as demonstrated by, but not limited to, all of the following:

(a) The utility industry, with the knowledge of the Franchise Tax Board, interpreted written advice by the Franchise Tax Board, both in 1973 and in 1987, to conclude that contributions in aid of construction do not constitute taxable income for state income tax purposes.

(b) In its determination of rates, the Public Utilities Commission has based utility rates on the industry practice of not considering contributions in aid of construction as taxable income.

(c) In 1987, through both Senate Joint Resolution 8 and Assembly Joint Resolution 20, the Legislature petitioned the Congress to repeal its taxation of capital contributions to investor-owned energy and water utilities.

(d) In 1987, the Legislature enacted Senate Bill 572, which conformed generally with tax changes made in the Federal Tax Reform Act of 1986. The Legislature specifically did not conform to provisions of that act that included contributions in aid of construction in the definition of taxable income.

SEC. 3. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect.

CHAPTER 605

An act to amend Section 11411 of the Penal Code, relating to terrorism.

[Approved by Governor October 5, 1991 Filed with Secretary of State October 7, 1991.]

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

SECTION 1. Section 11411 of the Penal Code is amended to read:

11411. (a) Any person who places or displays a sign, mark, symbol, emblem, or other physical impression, including, but not limited to, a Nazi swastika on the private property of another, without authorization, for the purpose of terrorizing the owner or occupant of that private property or in reckless disregard of the risk of terrorizing the owner or occupant of that private property shall be punished by imprisonment in the county jail not to exceed one year, by a fine not to exceed five thousand dollars ($5,000), or by both the fine and imprisonment for the first conviction and by

imprisonment in the county jail not to exceed one year, by a fine not to exceed fifteen thousand dollars ($15,000), or by both the fine and imprisonment for any subsequent conviction.

(b) Any person who engages in a pattern of conduct for the purpose of terrorizing the owner or occupant of private property or in reckless disregard of terrorizing the owner or occupant of that private property, by placing or displaying a sign, mark, symbol, emblem, or other physical impression, including, but not limited to, a Nazi swastika, on the private property of another on two or more occasions, shall be punished by imprisonment in the state prison for 16 months or 2 or 3 years, by a fine not to exceed ten thousand dollars ($10,000), or by both the fine and imprisonment, or by imprisonment in a county jail not to exceed one year, by a fine not to exceed five thousand dollars ($5,000), or by both the fine and imprisonment. A violation of this subdivision shall not constitute felonious conduct for purposes of Section 186.22.

(c) Any person who burns or desecrates a cross or other religious symbol, knowing it to be a religious symbol, on the private property of another without authorization for the purpose of terrorizing the owner or occupant of that private property or in reckless disregard of the risk of terrorizing the owner or occupant of that private property shall be punished by imprisonment in the state prison for 16 months or 2 or 3 years, by a fine of not more than ten thousand dollars ($10,000), or by both the fine and imprisonment, or by imprisonment in a county jail not to exceed one year, by a fine not to exceed five thousand dollars ($5,000), or by both the fine and imprisonment for the first conviction and by imprisonment in the state prison for 16 months or 2 or 3 years, by a fine of not more than ten thousand dollars ($10,000), or by both the fine and imprisonment, or by imprisonment in a county jail not to exceed one year, by a fine not to exceed fifteen thousand dollars ($15,000), or by both the fine and imprisonment for any subsequent conviction.

(d) As used in this section, "terrorize" means to cause a person of ordinary emotions and sensibilities to fear for personal safety.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 606

An act to amend Section 3052.5 of, and to add Section 3052b to, the Civil Code, relating to liens.

[Approved by Governor October 5, 1991. Filed with Secretary of State October 7, 1991.]

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

SECTION 1. Section 3052b is added to the Civil Code, to read:

3052b. (a) The procedure in this section shall be an alternative to the lien-sale procedure provided in Section 3052, but applies only to liens under Section 3051 for charges not exceeding one hundred fifty dollars ($150), exclusive of additional charges and interest authorized by this section. As a condition precedent to using the procedure specified in this section, the lienholder shall have done all of the following:

(1) Provided the property owner with an accurate written summary of the lien provisions of this section.

(2) Obtained the property owner's address and telephone number, together with a written declaration signed by the property owner stating that the property owner has read and understands the summary provided pursuant to paragraph (1), at the time of entering into the transaction from which the lien arose.

(3) Posted, at the time of the transaction from which the lien arose, a notice which fully and fairly informs the public of the substance of this section. The notice shall be posted in a location clearly visible to the public in the lienholder's business premises.

(b) Any lienholder proceeding under this section shall notify the owner of the property subject to the lien upon completion of the work for which the lien is claimed. This notice shall be by first-class mail.

(c) If a property owner who has actually received notice pursuant to subdivision (b) fails to pay the charges for which the lien is claimed for 30 days following receipt of the notice, the lienholder may thereafter charge two dollars ($2) per day for storing the property subject to the lien and these charges shall also be secured by the lien.

(d) Not less than 30 days following the notice specified in subdivision (b), the lienholder shall notify the property owner by first-class mail that the property will be sold to satisfy the lien, unless the charges are paid within 30 days following the mailing of the notice.

(e) If the lienholder has complied with the notice requirements of subdivisions (b) and (d), not less than 30 days have elapsed since the mailing of the notice required by subdivision (d), and the property owner has not fully paid the original charges for which the lien is claimed plus any additional charges authorized by subdivision

(c), the lienholder may sell the property subject to the lien at a public or bona fide private sale to satisfy the sum of those obligations, all costs and expenses of the sale, and interest at the rate of 12 percent per annum from 30 days following receipt of the notice specified in subdivision (b) or the date the same were advanced until repayment.

(f) However, the owner of the property sold pursuant to subdivision (e) may redeem the property sold to satisfy the lien, within 20 days following the sale, upon payment of all charges, costs and expenses, and interest specified in subdivision (e).

(g) The proceeds of the sale shall first be applied to the discharge of the lien, the costs of sale, and interest specified in subdivision (e). The remainder, if any, shall be paid to the former owner of the property so sold.

SEC. 2. Section 3052.5 of the Civil Code is amended to read:

3052.5. (a) The provisions of Sections 3052 and 3052b shall not apply to any service dealer registered with the Bureau of Repair Services pursuant to Chapter 20 (commencing with Section 9800) of Division 3 of the Business and Professions Code if the dealer reasonably believes that the serviced product is of nominal value. For purposes of this section, nominal value shall be ascertained as follows: the product is not readily salable for more than the legitimate charges against it, and either the original retail value of the product was under two hundred dollars ($200) and the product is over three years old, or the original retail value is over two hundred dollars ($200) and the product is over six years old.

Service dealers may use any available materials or information including, but not limited to, industry publications, code dates, sales records, or receipts to assist in determining value and age of the serviced product.

(b) A service dealer may select one of the following alternative methods for the disposal of unclaimed serviced products determined to have a value as specified in subdivision (a):

(1) The service dealer may provide the owner of such product with the following written notice to be mailed following completion of work on the serviced product:

DATE BROUGHT IN _____
DATE MAILED _____
DATE PRODUCT TO BE SOLD IF NOT CLAIMED

NOTICE: YOUR PRODUCT HAS BEEN DETERMINED BY THIS SERVICE DEALER TO BE ONE WHICH WAS EITHER ORIGINALLY SOLD FOR LESS THAN $200 AND IS NOW OVER THREE YEARS OLD OR ONE WHICH WAS ORIGINALLY SOLD FOR MORE THAN $200 AND WHICH IS NOW OVER SIX YEARS OLD AND THE CHARGES FOR SERVICING YOUR PRODUCT WILL EXCEED ITS CURRENT

VALUE. UNDER CALIFORNIA CIVIL CODE SECTION 3052.5(a) IF YOU OR YOUR AGENT FAIL TO CLAIM YOUR PRODUCT WITHIN 90 DAYS AFTER THE DEALER MAILS A COPY OF THIS NOTICE TO YOU IT MAY BE SOLD OR OTHERWISE DISPOSED OF BY HIM.

The notice shall be sent by certified mail, return receipt requested. A serviced product may be disposed of 90 days after the date of deliverance evidenced by the signature in the returned receipt.

(2) The service dealer may publish public notice of the intended sale in a newspaper of general circulation. Such notice shall contain a description of the serviced product, the name of the serviced product owner, and the time by which and place where the product may be redeemed. Such notice shall be published for a minimum of five times. A serviced product may be disposed of 90 days after the last date of publication.

(3) A service dealer may, upon receipt of any product to be serviced by him, provide the owner of such product with the following notice, written in at least 10-point bold type:

DATE BROUGHT IN _____
DATE MAILED _____
DATE PRODUCT TO BE SOLD IF NOT CLAIMED

NOTICE: YOUR PRODUCT HAS BEEN DETERMINED BY THIS SERVICE DEALER TO BE ONE WHICH WAS EITHER ORIGINALLY SOLD FOR LESS THAN $200 AND IS NOW OVER THREE YEARS OLD OR ONE WHICH WAS ORIGINALLY SOLD FOR MORE THAN $200 AND WHICH IS NOW OVER SIX YEARS OLD AND THE CHARGES FOR SERVICING YOUR PRODUCT WILL EXCEED ITS CURRENT VALUE. UNDER CALIFORNIA CIVIL CODE SECTION 3052.5(a) IF YOU OR YOUR AGENT FAIL TO CLAIM YOUR PRODUCT WITHIN 90 DAYS AFTER THE DEALER MAILS A COPY OF THIS NOTICE TO YOU IT MAY BE SOLD OR OTHERWISE DISPOSED OF BY HIM.

PRINT YOUR NAME AND MAILING ADDRESS WHERE NOTICE MAY BE SENT TO YOU IN THE SPACE PROVIDED BELOW AND SIGN WHERE INDICATED TO SHOW THAT YOU HAVE READ THIS NOTICE.

(Print Name)

(Street Address)

(City, State and ZIP Code)

IF YOU DO NOT AGREE WITH THE ABOVE DETERMINED

VALUE OF YOUR ITEM, DO NOT SIGN THIS DOCUMENT.

Signature: _____
(Owner or Agent)

Such notice shall be signed, addressed, and dated by the owner, with a copy to be retained by both the owner and the service dealer. At the completion of service, the service dealer shall by first-class mail, mail a completed copy of such notice to the owner of the service product at the address given on the notice form. A serviced product may be disposed of 90 days after the date of mailing.

(c) For purposes of this section an owner is the person or agent who authorizes the original service or repair, or delivers the product to the service dealer.

CHAPTER 607

An act to add Section 6071 to the Business and Professions Code, to amend Sections 52 and 52.1 of the Civil Code, to amend Section 6254 of the Government Code, and to amend Sections 422.6, 422.7, and 1170.75 of, and to add Sections 422.75 and 422.95 to, the Penal Code, relating to civil rights.

[Approved by Governor October 5, 1991 Filed with Secretary of State October 7, 1991]

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

SECTION 1. Section 6071 is added to the Business and Professions Code, to read:

6071. (a) The State Bar shall request the California Supreme Court to amend Rule of Court 958, relating to the mandatory continuing education program, to provide that one hour of the mandatory eight hours of legal education activities in legal ethics or law practice management, instead, may be satisfied by one hour of legal education activity in the civil and criminal remedies available for civil rights violations.

(b) This section shall not affect the requirement that all active members of the State Bar complete at least four hours of legal education activity in ethics within designated 36-month periods.

SEC. 2. Section 52 of the Civil Code is amended to read:

52. (a) Whoever denies, or who aids, or incites the denial, or whoever makes any discrimination, distinction, or restriction on account of sex, color, race, religion, ancestry, national origin, or blindness or other physical disability contrary to Section 51 or 51.5, is liable for each and every offense for the actual damages, and any amount that may be determined by a jury, or a court sitting without a jury, up to a maximum of three times the amount of actual damage

but in no case less than two hundred fifty dollars ($250), and any attorney's fees that may be determined by the court in addition thereto, suffered by any person denied the rights provided in Section 51 or 51.5.

(b) Whoever denies the right provided by Section 51.7, or whoever aids, incites, or conspires in that denial, is liable for each and every offense for the actual damages suffered by any person denied that right and, in addition, (1) an amount to be determined by a jury, or a court sitting without a jury, for exemplary damages; (2) a civil penalty of twenty-five thousand dollars ($25,000) to be awarded to the person denied the right provided by Section 51.7; and (3) attorney fees as may be determined by the court.

(c) Whenever there is reasonable cause to believe that any person or group of persons is engaged in a pattern or practice of resistance to the full enjoyment of any of the rights hereby secured, and that the pattern or practice is of a nature and is intended to deny the full exercise of the rights herein described, the Attorney General, any district attorney or city attorney, or any person aggrieved by the pattern or practice may bring a civil action in the appropriate court by filing with it a complaint (1) signed by the officer (or in his or her absence the individual acting on behalf of the officer) or by the person aggrieved, (2) setting forth facts pertaining to the pattern or practice, and (3) requesting any preventive relief, including an application for a permanent or temporary injunction, restraining order, or other order against the person or persons responsible for the pattern or practice, as he or she deems necessary to insure the full enjoyment of the rights herein described.

(d) Whenever an action has been commenced in any court seeking relief from the denial of equal protection of the laws under the Fourteenth Amendment to the Constitution of the United States on account of race, color, religion, sex, national origin, or blindness or other physical disability, the Attorney General or any district attorney or city attorney for or in the name of the people of the State of California may intervene in the action upon timely application if the Attorney General or any district attorney or city attorney certifies that the case is of general public importance. In that action the people of the State of California shall be entitled to the same relief as if it had instituted the action.

(e) Actions under this section shall be independent of any other remedies or procedures that may be available to an aggrieved party.

(f) Any person claiming to be aggrieved by an alleged unlawful practice in violation of Section 51 or 51.7 may also file a verified complaint with the Department of Fair Employment and Housing pursuant to Section 12948 of the Government Code.

(g) Nothing in this section shall be construed to require any construction, alteration, repair, structural or otherwise, or modification of any sort whatsoever to any new or existing establishment, facility, building, improvement, or any other structure, or to augment, restrict, or alter in any way the authority

of the State Architect to require construction, alteration, repair, or modifications that the State Architect otherwise possesses pursuant to other laws.

Nothing in this section shall require any person renting, leasing, or otherwise providing real property for compensation to modify his or her property in any way, or provide a higher degree of care for a blind or other physically disabled person than for a person who is not physically disabled.

(h) For the purposes of this section, "actual damages" means special and general damages. This subdivision is declaratory of existing law.

SEC. 2.5. Section 52 of the Civil Code is amended to read:

52. (a) Whoever denies, aids or incites a denial, or makes any discrimination, distinction, or restriction on account of sex, color, race, religion, ancestry, national origin, or blindness or other physical disability contrary to Section 51 or 51.5, is liable for each and every offense for the actual damages, and any amount that may be determined by a jury, or a court sitting without a jury, up to a maximum of three times the amount of actual damage but in no case less than two hundred fifty dollars ($250), and any attorney's fees that may be determined by the court in addition thereto, suffered by any person denied the rights provided in Section 51 or 51.5.

(b) Whoever denies the right provided by Section 51.7, or aids, incites, or conspires in that denial, is liable for each and every offense for the actual damages suffered by any person denied that right and, in addition, the following:

(1) An amount to be determined by a jury, or a court sitting without a jury, for exemplary damages.

(2) A civil penalty of twenty-five thousand dollars ($25,000) to be awarded to the person denied the right provided by Section 51.7.

(3) Attorney fees as may be determined by the court.

(c) Whenever there is reasonable cause to believe that any person or group of persons is engaged in conduct of resistance to the full enjoyment of any of the rights hereby secured, and that conduct is of that nature and is intended to deny the full exercise of the rights herein described, the Attorney General, any district attorney or city attorney, or any person aggrieved by the conduct may bring a civil action in the appropriate court by filing with it a complaint. The complaint shall contain the following:

(1) The signature of the officer, or, in his or her absence, the individual acting on behalf of the officer, or the signature of the person aggrieved.

(2) The facts pertaining to the conduct.

(3) A request for preventive relief, including an application for a permanent or temporary injunction, restraining order, or other order against the person or persons responsible for the conduct, as the complainant deems necessary to insure the full enjoyment of the rights herein described.

(d) Whenever an action has been commenced in any court

seeking relief from the denial of equal protection of the laws under the Fourteenth Amendment to the Constitution of the United States on account of race, color, religion, sex, national origin, or blindness or other physical disability, the Attorney General or any district attorney or city attorney for or in the name of the people of the State of California may intervene in the action upon timely application if the Attorney General or any district attorney or city attorney certifies that the case is of general public importance. In that action the people of the State of California shall be entitled to the same relief as if it had instituted the action.

(e) Actions under this section shall be independent of any other remedies or procedures that may be available to an aggrieved party.

(f) Any person claiming to be aggrieved by an alleged unlawful practice in violation of Section 51 or 51.7 may also file a verified complaint with the Department of Fair Employment and Housing pursuant to Section 12948 of the Government Code.

(g) Nothing in this section shall be construed to require any construction, alteration, repair, structural or otherwise, or modification of any sort whatsoever to any new or existing establishment, facility, building, improvement, or any other structure, or to augment, restrict, or alter in any way the authority of the State Architect to require construction, alteration, repair, or modifications that the State Architect otherwise possesses pursuant to other laws.

Nothing in this section shall require any person renting, leasing, or otherwise providing real property for compensation to modify his or her property in any way, or provide a higher degree of care for a blind or other physically disabled person than for a person who is not physically disabled.

(h) For the purposes of this section, "actual damages" means special and general damages. This subdivision is declaratory of existing law.

SEC. 3. Section 52.1 of the Civil Code is amended to read:

52.1. (a) Whenever a person or persons, whether or not acting under color of law, interferes by threats, intimidation, or coercion, or attempts to interfere by threats, intimidation, or coercion, with the exercise or enjoyment by any individual or individuals of rights secured by the Constitution or laws of the United States, or of the rights secured by the Constitution or laws of this state, the Attorney General, or any district attorney or city attorney may bring a civil action for injunctive and other appropriate equitable relief in the name of the people of the State of California, in order to protect the peaceable exercise or enjoyment of the right or rights secured.

(b) Any individual whose exercise or enjoyment of rights secured by the Constitution or laws of the United States, or of rights secured by the Constitution or laws of this state, has been interfered with, or attempted to be interfered with, as described in subdivision (a), may institute and prosecute in his or her own name and on his or her own behalf a civil action for damages, including, but not limited to,

damages under Section 52, injunctive relief, and other appropriate equitable relief to protect the peaceable exercise or enjoyment of the right or rights secured.

(c) An action brought pursuant to subdivision (a) or (b) may be filed either in the superior court for the county in which the conduct complained of occurred or in the superior court for the county in which a person whose conduct complained of resides or has his or her place of business. An action brought by the Attorney General pursuant to subdivision (a) also may be filed in the superior court for any county wherein the Attorney General has an office, and in such a case, the jurisdiction of the court shall extend throughout the state.

(d) Whenever a court issues a temporary restraining order or a preliminary or permanent injunction in an action brought pursuant to subdivision (a) or (b), ordering a defendant to refrain from conduct or activities, the order issued shall include the following statement: VIOLATION OF THIS ORDER IS A CRIME PUNISHABLE UNDER SECTION 422.9 OF THE PENAL CODE.

(e) The court shall order the plaintiff or the attorney for the plaintiff to deliver, or the county clerk to mail, two copies of any order, extension, modification, or termination thereof granted pursuant to this section, by the close of the business day on which the order, extension, modification, or termination was granted, to each local law enforcement agency having jurisdiction over the residence of the plaintiff and any other locations where the court determines that acts of violence against the plaintiff are likely to occur. Those local law enforcement agencies shall be designated by the plaintiff or the attorney for the plaintiff. Each appropriate law enforcement agency receiving any order, extension, or modification of any order issued pursuant to this section shall serve forthwith one copy thereof upon the defendant. Each appropriate law enforcement agency shall provide to any law enforcement officer responding to the scene of reported violence, information as to the existence of, terms, and current status of, any order issued pursuant to this section.

(f) A court shall not have jurisdiction to issue an order or injunction under this section, if that order or injunction would be prohibited under Section 527.3 of the Code of Civil Procedure.

(g) Actions under this section shall be independent of any other remedies or procedures that may be available to an aggrieved person under any other provision of law.

(h) In addition to any damages, injunction, or other equitable relief awarded in an action brought pursuant to subdivision (b), the court may award the petitioner or plaintiff reasonable attorney's fees.

(i) A violation of an order described in subdivision (d) may be punished either by prosecution under Section 422.9 of the Penal Code, or by a proceeding for contempt brought pursuant to Title 5 (commencing with Section 1209) of Part 3 of the Code of Civil Procedure. However, in any such proceeding pursuant to the Code of Civil Procedure, if it be determined that the person proceeded

against is guilty of the contempt charged, in addition to any other relief, a fine may be imposed not exceeding one thousand dollars ($1,000), or the person may be ordered imprisoned in a county jail not exceeding six months, or the court may order both the imprisonment and fine.

(j) Speech alone shall not be sufficient to support an action under subdivision (a) or (b), except upon a showing that the speech itself threatens violence against a specific person or group of persons; and the person or group of persons against whom the threat is directed reasonably fears that, because of the speech, violence will be committed against them or their property and that the person threatening violence had the apparent ability to carry out the threat.

(k) No order issued in any proceeding under subdivision (a) or (b) shall restrict the content of any person's speech. An order restricting the time, place, or manner of any person's speech shall do so only to the extent reasonably necessary to protect the peaceable exercise or enjoyment of constitutional or statutory rights, consistent with the constitutional rights of the person sought to be enjoined.

SEC. 4. Section 6254 of the Government Code, as amended by Chapter 298 of the Statutes of 1991, is amended to read:

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

(a) Preliminary drafts, notes, or interagency or intra-agency memoranda which are not retained by the public agency in the ordinary course of business, provided that the public interest in withholding those records clearly outweighs the public interest in disclosure.

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

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

(d) Contained in or related to:

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

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

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

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

(e) Geological and geophysical data, plant production data, and

similar information relating to utility systems development, or market or crop reports, which are obtained in confidence from any person.

(f) Records of complaints to, or investigations conducted by, or records of intelligence information or security procedures of, the office of the Attorney General and the Department of Justice, and any state or local police agency, or any investigatory or security files compiled by any other state or local police agency, or any investigatory or security files compiled by any other state or local agency for correctional, law enforcement, or licensing purposes, except that state and local law enforcement agencies shall disclose the names and addresses of persons involved in, or witnesses other than confidential informants to, the incident, the description of any property involved, the date, time, and location of the incident, all diagrams, statements of the parties involved in the incident, the statements of all witnesses, other than confidential informants, to the victims of an incident, or an authorized representative thereof, an insurance carrier against which a claim has been or might be made, and any person suffering bodily injury or property damage or loss, as the result of the incident caused by arson, burglary, fire, explosion, larceny, robbery, vandalism, vehicle theft, or a crime as defined by subdivision (c) of Section 13960, unless the disclosure would endanger the safety of a witness or other person involved in the investigation, or unless disclosure would endanger the successful completion of the investigation or a related investigation. However, nothing in this division shall require the disclosure of that portion of those investigative files which reflect the analysis or conclusions of the investigating officer.

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

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

(2) The time, substance, and location of all complaints or requests for assistance received by the agency and the time and nature of the response thereto, including, to the extent the information regarding crimes alleged or committed or any other incident investigated is recorded, the time, date, and location of occurrence, the time and date of the report, the name, age, and current address of the victim,

except that the address of the victim of any crime defined by Section 261, 264, 264.1, 273a, 273d, 273.5, 286, 288, 288a, 289, 422.6, 422.7, or 422.75 of the Penal Code shall not be disclosed, the factual circumstances surrounding the crime or incident, and a general description of any injuries, property, or weapons involved. The name of a victim of any crime defined by Section 261, 264, 264.1, 273a, 273d, 273.5, 286, 288, 288a, 289, 422.6, 422.7, or 422.75 of the Penal Code may be withheld at the victim's request, or at the request of the victim's parent or guardian if the victim is a minor. When a person is the victim of more than one crime, information disclosing that the person is a victim of a crime defined by Section 261, 264, 264.1, 273a, 273d, 286, 288, 288a, 289, 422.6, 422.7, or 422.75 of the Penal Code may be deleted at the request of the victim, or the victim's parent or guardian if the victim is a minor, in making the report of the crime, or of any crime or incident accompanying the crime, available to the public in compliance with the requirements of this paragraph.

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

(h) The contents of real estate appraisals or engineering or feasibility estimates and evaluations made for or by the state or local agency relative to the acquisition of property, or to prospective public supply and construction contracts, until all of the property has been acquired or all of the contract agreement obtained. However, the law of eminent domain shall not be affected by this provision.

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

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

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

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

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

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

(o) Financial data contained in applications for financing under

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

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

(q) Records of state agencies related to activities governed by Articles 2.6 (commencing with Section 14081), 2.8 (commencing with Section 14087.5), and 2.91 (commencing with Section 14089) of Chapter 7 of Part 3 of Division 9 of the Welfare and Institutions Code, which reveal the special negotiator's deliberative processes, discussions, communications, or any other portion of the negotiations with providers of health care services, impressions, opinions, recommendations, meeting minutes, research, work product, theories, or strategy, or which provide instruction, advice, or training to employees.

Except for the portion of a contract containing the rates of payment, contracts for inpatient services entered into pursuant to these articles, on or after April 1, 1984, shall be open to inspection one year after they are fully executed. In the event that a contract for inpatient services which is entered into prior to April 1, 1984, is amended on or after April 1, 1984, the amendment, except for any portion containing the rates of payment, shall be open to inspection one year after it is fully executed. If the California Medical Assistance Commission enters into contracts with health care providers for other than inpatient hospital services, those contracts shall be open to inspection one year after they are fully executed.

Three years after a contract or amendment is open to inspection under this subdivision, the portion of the contract or amendment containing the rates of payment shall be open to inspection.

Notwithstanding any other provision of law, the entire contract or amendment shall be open to inspection by the Joint Legislative Audit

Committee. The Joint Legislative Audit Committee shall maintain the confidentiality of the contracts and amendments until such time as a contract or amendment is fully open to inspection by the public.

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

(s) A final accreditation report of the Joint Commission on Accreditation of Hospitals which has been transmitted to the State Department of Health Services pursuant to subdivision (b) of Section 1282 of the Health and Safety Code.

(t) Records of a local hospital district, formed pursuant to Division 23 (commencing with Section 32000) of the Health and Safety Code, which relate to any contract with an insurer or nonprofit hospital service plan for inpatient or outpatient services for alternative rates pursuant to Section 10133 or 11512 of the Insurance Code. However, the record shall be open to inspection within one year after the contract is fully executed.

(u) Information contained in applications for licenses to carry concealed weapons issued by the sheriff of a county or the chief or other head of a municipal police department which indicates when or where the applicant is vulnerable to attack or which concerns the applicant's medical or psychological history or that of members of his or her family.

(v) Residence addresses contained in licensure applications and registration applications for collection agencies as may be required by the Bureau of Collection and Investigative Services of the Department of Consumer Affairs pursuant to Sections 6876.2, 6877, 6878, and 6894.3 of the Business and Professions Code.

(w) (1) Records of the Major Risk Medical Insurance Program related to activities governed by Part 6.3 (commencing with Section 12695), and Part 6.5 (commencing with Section 12700), of Division 2 of the Insurance Code, and which reveal the deliberative processes, discussions, communications, or any other portion of the negotiations with health plans, or the impressions, opinions, recommendations, meeting minutes, research, work product, theories, or strategy of the board or its staff, or records that provide instructions, advice, or training to employees.

(2) (A) Except for the portion of a contract that contains the rates of payment, contracts for health coverage entered into pursuant to Part 6.3 (commencing with Section 12695), or Part 6.5 (commencing with Section 12700), of Division 2 of the Insurance Code, on or after July 1, 1991, shall be open to inspection one year after they have been fully executed.

(B) In the event that a contract for health coverage that is entered into prior to July 1, 1991, is amended on or after July 1, 1991, the amendment, except for any portion containing the rates of payment shall be open to inspection one year after the amendment has been fully executed.

(3) Three years after a contract or amendment is open to inspection pursuant to this subdivision, the portion of the contract or

amendment containing the rates of payment shall be open to inspection.

(4) Notwithstanding any other provision of law, the entire contract or amendments to a contract shall be open to inspection by the Joint Legislative Audit Committee. The Joint Legislative Audit Committee shall maintain the confidentiality of the contracts and amendments thereto, until the contract or amendments to a contract is open to inspection pursuant to paragraph (3).

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

Nothing in this section prevents any health facility from disclosing to a certified bargaining agent relevant financing information pursuant to Section 8 of the National Labor Relations Act.

SEC. 4.5. Section 6254 of the Government Code, as amended by Chapter 298 of the Statutes of 1991, is amended to read:

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

(a) Preliminary drafts, notes, or interagency or intra-agency memoranda which are not retained by the public agency in the ordinary course of business, provided that the public interest in withholding those records clearly outweighs the public interest in disclosure.

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

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

(d) Contained in or related to:

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

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

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

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

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

(f) Records of complaints to, or investigations conducted by, or

records of intelligence information or security procedures of, the office of the Attorney General and the Department of Justice, and any state or local police agency, or any investigatory or security files compiled by any other state or local police agency, or any investigatory or security files compiled by any other state or local agency for correctional, law enforcement, or licensing purposes, except that state and local law enforcement agencies shall disclose the names and addresses of persons involved in, or witnesses other than confidential informants to, the incident, the description of any property involved, the date, time, and location of the incident, all diagrams, statements of the parties involved in the incident, the statements of all witnesses, other than confidential informants, to the victims of an incident, or an authorized representative thereof, an insurance carrier against which a claim has been or might be made, and any person suffering bodily injury or property damage or loss, as the result of the incident caused by arson, burglary, fire, explosion, larceny, robbery, vandalism, vehicle theft, or a crime as defined by subdivision (c) of Section 13960, unless the disclosure would endanger the safety of a witness or other person involved in the investigation, or unless disclosure would endanger the successful completion of the investigation or a related investigation. However, nothing in this division shall require the disclosure of that portion of those investigative files which reflect the analysis or conclusions of the investigating officer.

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

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

(2) Subject to the restrictions imposed by Section 841.5 of the Penal Code, the time, substance, and location of all complaints or requests for assistance received by the agency and the time and nature of the response thereto, including, to the extent the information regarding crimes alleged or committed or any other incident investigated is recorded, the time, date, and location of occurrence, the time and date of the report, the name, age, and current address of the victim, except that the address of the victim of any crime defined by Section 261, 264, 264.1, 273a, 273d, 273.5, 286, 288, 288a, 289, 422.6, 422.7, or 422.75 of the Penal Code shall not be

disclosed, the factual circumstances surrounding the crime or incident, and a general description of any injuries, property, or weapons involved. The name of a victim of any crime defined by Section 261, 264, 264.1, 273a, 273d, 273.5, 286, 288, 288a, 289, 422.6, 422.7, or 422.75 of the Penal Code may be withheld at the victim's request, or at the request of the victim's parent or guardian if the victim is a minor. When a person is the victim of more than one crime, information disclosing that the person is a victim of a crime defined by Section 261, 264, 264.1, 273a, 273d, 286, 288, 288a, 289, 422.6, 422.7, or 422.75 of the Penal Code may be deleted at the request of the victim, or the victim's parent or guardian if the victim is a minor, in making the report of the crime, or of any crime or incident accompanying the crime, available to the public in compliance with the requirements of this paragraph.

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

(h) The contents of real estate appraisals or engineering or feasibility estimates and evaluations made for or by the state or local agency relative to the acquisition of property, or to prospective public supply and construction contracts, until all of the property has been acquired or all of the contract agreement obtained. However, the law of eminent domain shall not be affected by this provision.

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

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

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

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

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

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

(o) Financial data contained in applications for financing under Division 27 (commencing with Section 44500) of the Health and Safety Code, where an authorized officer of the California Pollution

Control Financing Authority determines that disclosure of the financial data would be competitively injurious to the applicant and the data is required in order to obtain guarantees from the United States Small Business Administration. The California Pollution Control Financing Authority shall adopt rules for review of individual requests for confidentiality under this section and for making available to the public those portions of an application which are subject to disclosure under this chapter.

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

(q) Records of state agencies related to activities governed by Articles 2.6 (commencing with Section 14081), 2.8 (commencing with Section 14087.5), and 2.91 (commencing with Section 14089) of Chapter 7 of Part 3 of Division 9 of the Welfare and Institutions Code, which reveal the special negotiator's deliberative processes, discussions, communications, or any other portion of the negotiations with providers of health care services, impressions, opinions, recommendations, meeting minutes, research, work product, theories, or strategy, or which provide instruction, advice, or training to employees.

Except for the portion of a contract containing the rates of payment, contracts for inpatient services entered into pursuant to these articles, on or after April 1, 1984, shall be open to inspection one year after they are fully executed. In the event that a contract for inpatient services which is entered into prior to April 1, 1984, is amended on or after April 1, 1984, the amendment, except for any portion containing the rates of payment, shall be open to inspection one year after it is fully executed. If the California Medical Assistance Commission enters into contracts with health care providers for other than inpatient hospital services, those contracts shall be open to inspection one year after they are fully executed.

Three years after a contract or amendment is open to inspection under this subdivision, the portion of the contract or amendment containing the rates of payment shall be open to inspection.

Notwithstanding any other provision of law, the entire contract or amendment shall be open to inspection by the Joint Legislative Audit Committee. The Joint Legislative Audit Committee shall maintain the confidentiality of the contracts and amendments until such time

as a contract or amendment is fully open to inspection by the public.

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

(s) A final accreditation report of the Joint Commission on Accreditation of Hospitals which has been transmitted to the State Department of Health Services pursuant to subdivision (b) of Section 1282 of the Health and Safety Code.

(t) Records of a local hospital district, formed pursuant to Division 23 (commencing with Section 32000) of the Health and Safety Code, which relate to any contract with an insurer or nonprofit hospital service plan for inpatient or outpatient services for alternative rates pursuant to Section 10133 or 11512 of the Insurance Code. However, the record shall be open to inspection within one year after the contract is fully executed.

(u) Information contained in applications for licenses to carry concealed weapons issued by the sheriff of a county or the chief or other head of a municipal police department which indicates when or where the applicant is vulnerable to attack or which concerns the applicant's medical or psychological history or that of members of his or her family.

(v) Residence addresses contained in licensure applications and registration applications for collection agencies as may be required by the Bureau of Collection and Investigative Services of the Department of Consumer Affairs pursuant to Sections 6876.2, 6877, 6878, and 6894.3 of the Business and Professions Code.

(w) (1) Records of the Major Risk Medical Insurance Program related to activities governed by Part 6.3 (commencing with Section 12695), and Part 6.5 (commencing with Section 12700), of Division 2 of the Insurance Code, and which reveal the deliberative processes, discussions, communications, or any other portion of the negotiations with health plans, or the impressions, opinions, recommendations, meeting minutes, research, work product, theories, or strategy of the board or its staff, or records that provide instructions, advice, or training to employees.

(2) (A) Except for the portion of a contract that contains the rates of payment, contracts for health coverage entered into pursuant to Part 6.3 (commencing with Section 12695), or Part 6.5 (commencing with Section 12700), of Division 2 of the Insurance Code, on or after July 1, 1991, shall be open to inspection one year after they have been fully executed.

(B) In the event that a contract for health coverage that is entered into prior to July 1, 1991, is amended on or after July 1, 1991, the amendment, except for any portion containing the rates of payment shall be open to inspection one year after the amendment has been fully executed.

(3) Three years after a contract or amendment is open to inspection pursuant to this subdivision, the portion of the contract or amendment containing the rates of payment shall be open to inspection.

(4) Notwithstanding any other provision of law, the entire contract or amendments to a contract shall be open to inspection by the Joint Legislative Audit Committee. The Joint Legislative Audit Committee shall maintain the confidentiality of the contracts and amendments thereto, until the contract or amendments to a contract is open to inspection pursuant to paragraph (3).

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

Nothing in this section prevents any health facility from disclosing to a certified bargaining agent relevant financing information pursuant to Section 8 of the National Labor Relations Act.

SEC. 5. Section 422.6 of the Penal Code is amended to read:

422.6. (a) No person, whether or not acting under color of law, shall by force or threat of force, willfully injure, intimidate, interfere with, oppress, or threaten any other person in the free exercise or enjoyment of any right or privilege secured to him or her by the Constitution or laws of this state or by the Constitution or laws of the United States because of the other person's race, color, religion, ancestry, national origin, disability, or sexual orientation.

(b) No person, whether or not acting under color of law, shall knowingly deface, damage, or destroy the real or personal property of any other person for the purpose of intimidating or interfering with the free exercise or enjoyment of any right or privilege secured to the other person by the Constitution or laws of this state or by the Constitution or laws of the United States, because of the other person's race, color, religion, ancestry, national origin, or sexual orientation.

(c) Any person convicted of violating subdivision (a) or (b) shall be punished by imprisonment in the county jail not to exceed one year, or by a fine not to exceed five thousand dollars ($5,000), or by both the fine and imprisonment. However, no person shall be convicted of violating subdivision (a) based upon speech alone, except upon a showing that the speech itself threatened violence against a specific person or group of persons and that the defendant had the apparent ability to carry out the threat.

SEC. 5.5. Section 422.6 of the Penal Code is amended to read:

422.6. (a) No person, whether or not acting under color of law, shall by force or threat of force, willfully injure, intimidate, interfere with, oppress, or threaten any other person in the free exercise or enjoyment of any right or privilege secured to him or her by the constitution or laws of this state or by the Constitution or laws of the United States because of the other person's race, color, religion, ancestry, national origin, disability, gender, or sexual orientation.

(b) No person, whether or not acting under color of law, shall knowingly deface, damage, or destroy the real or personal property of any other person for the purpose of intimidating or interfering with the free exercise or enjoyment of any right or privilege secured to the other person by the constitution or laws of this state or by the

Constitution or laws of the United States, because of the other person's race, color, religion, ancestry, national origin, disability, gender, or sexual orientation.

(c) Any person convicted of violating subdivision (a) or (b) shall be punished by imprisonment in a county jail not to exceed one year, or by a fine not to exceed five thousand dollars ($5,000), or by both that imprisonment and fine. However, no person shall be convicted of violating subdivision (a) based upon speech alone, except upon a showing that the speech itself threatened violence against a specific person or group of persons and that the defendant had the apparent ability to carry out the threat.

SEC. 6. Section 422.7 of the Penal Code is amended to read:

422.7. Except in the case of a person punished under Section 422.6, any crime which is not made punishable by imprisonment in state prison shall be punishable by imprisonment in state prison or in county jail not to exceed one year, or by fine not to exceed ten thousand dollars ($10,000), or by both the fine and imprisonment, if the crime is committed against the person or property of another for the purpose of intimidating or interfering with that other person's free exercise or enjoyment of any right secured to him or her by the Constitution or the laws of this state or by the Constitution or laws of the United States and because of the other person's race, color, religion, ancestry, national origin, disability, or sexual orientation, under any of the following circumstances, which shall be charged in the accusatory pleading:

(a) The crime against the person of another either includes the present ability to commit a violent injury or causes actual physical injury.

(b) The crime against property causes damage in excess of five hundred dollars ($500).

(c) The person charged with a crime under this section has been previously convicted of a violation of subdivision (a) or (b) of Section 422.6, or has been previously convicted of a conspiracy to commit a crime described in subdivision (a) or (b) of Section 422.6.

SEC. 6.5. Section 422.7 of the Penal Code is amended to read:

422.7. Except in the case of a person punished under Section 422.6, any crime which is not made punishable by imprisonment in the state prison shall be punishable by imprisonment in the state prison or in a county jail not to exceed one year, by a fine not to exceed ten thousand dollars ($10,000), or by both that imprisonment and fine, if the crime is committed against the person or property of another for the purpose of intimidating or interfering with that other person's free exercise or enjoyment of any right secured to him or her by the constitution or laws of this state or by the Constitution or laws of the United States and because of the other person's race, color, religion, ancestry, national origin, disability, gender, or sexual orientation, under any of the following circumstances, which shall be charged in the accusatory pleading:

(a) The crime against the person of another either includes the

present ability to commit a violent injury or causes actual physical injury.

(b) The crime against property causes damage in excess of five hundred dollars ($500).

(c) The person charged with a crime under this section has been convicted previously of a violation of subdivision (a) or (b) of Section 422.6, or has been convicted previously of a conspiracy to commit a crime described in subdivision (a) or (b) of Section 422.6.

SEC. 7. Section 422.75 is added to the Penal Code, to read:

422.75. (a) Except in the case of a person punished under Section 422.7, a person who commits a felony or attempts to commit a felony because of the victim's race, color, religion, nationality, country of origin, ancestry, or sexual orientation shall receive an additional term of one, two, or three years in state prison at the court's discretion.

(b) Except in the case of a person punished under Section 422.7 or subdivision (a) of this section, any person who commits a felony or attempts to commit a felony because of the victim's race, color, religion, nationality, country of origin, ancestry, disability, or sexual orientation and who voluntarily acted in concert with another person either personally or by aiding and abetting another person shall receive an additional two, three, or four years in state prison, at the court's discretion.

(c) A person who is punished pursuant to subdivision (a) or (b) shall also receive an additional term of one year in state prison for each prior felony conviction on charges brought and tried separately in which it was found by the trier of the fact or admitted by the defendant that the crime was committed because of the victim's race, color, religion, nationality, country of origin, ancestry, disability, or sexual orientation. This additional term shall only apply where a sentence enhancement is not imposed pursuant to Section 667 or 667.5.

(d) The additional term in subdivisions (a), (b), and (c) shall not be imposed unless the allegation is charged in the accusatory pleading and admitted by the defendant or found to be true by the trier of fact.

(e) The additional term in subdivisions (a), (b), and (c) shall be in addition to any other punishment provided by law.

(f) Notwithstanding any other law, the court may strike the additional term in subdivisions (a), (b), and (c) if the court determines that there are mitigating circumstances and states on the record the reasons for striking the additional punishment.

SEC. 8. Section 422.95 is added to the Penal Code, to read:

422.95. (a) In the case of any person who is granted probation for any offense defined in Section 422.6, 422.7, or 422.75, the court may order that the defendant complete a class or program on racial or ethnic sensitivity, or other similar training in the area of civil rights, if such class, program, or training is available, as a condition of probation.

(b) It is the intent of the Legislature to encourage counties, cities, and school districts to establish education and training programs to prevent violations of civil rights and hate crimes.

SEC. 9. Section 1170.75 of the Penal Code is amended to read:

1170.75. Except where the court imposes additional punishment under Section 422.75 or in a case in which the person has been convicted of an offense subject to Section 1170.8, the fact that a person committed a felony or attempted to commit a felony because of the victim's race, color, religion, nationality, country of origin, ancestry, disability, or sexual orientation, shall be considered a circumstance in aggravation of the crime in imposing a term under subdivision (b) of Section 1170.

SEC. 9.5. Section 1170.75 of the Penal Code is amended to read:

1170.75. Except where the court imposes additional punishment under Section 422.75 or in a case in which the person has been convicted of an offense subject to Section 1170.8, the fact that a person committed a felony or attempted to commit a felony because of the victim's race, color, religion, nationality, country of origin, ancestry, disability, gender, or sexual orientation, shall be considered a circumstance in aggravation of the crime in imposing a term under subdivision (b) of Section 1170.

SEC. 10. Section 2.5 of this bill incorporates amendments to Section 52 of the Civil Code proposed by both this bill and AB 1169. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1992, (2) each bill amends Section 52 of the Civil Code, and (3) this bill is enacted after AB 1169, in which case Section 2 of this bill shall not become operative.

SEC. 11. Section 4.5 of this bill incorporates amendments to Section 6254 of the Government Code proposed by both this bill and AB 1681. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1992, (2) each bill amends Section 6254 of the Government Code, and (3) this bill is enacted after AB 1681, in which case Section 4 of this bill shall not become operative.

SEC. 12. Section 5.5 of this bill incorporates amendments to Section 422.6 of the Penal Code proposed by both this bill and AB 1009. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1992, (2) each bill amends Section 422.6 of the Penal Code, and (3) this bill is enacted after AB 1009, in which case Section 5 of this bill shall not become operative.

SEC. 13. Section 6.5 of this bill incorporates amendments to Section 422.7 of the Penal Code proposed by both this bill and AB 1009. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1992, (2) each bill amends Section 422.7 of the Penal Code, and (3) this bill is enacted after AB 1009, in which case Section 6 of this bill shall not become operative.

SEC. 14. Section 9.5 of this bill incorporates amendments to Section 1170.75 of the Penal Code proposed by both this bill and AB 1009. It shall only become operative if (1) both bills are enacted and

become effective on or before January 1, 1992, (2) each bill amends Section 1170.75 of the Penal Code, and (3) this bill is enacted after AB 1009, in which case Section 9 of this bill shall not become operative.

SEC. 15. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 608

An act to amend Section 1747.02 of, and to add Section 1747.94 to, the Civil Code, relating to credit cards.

[Approved by Governor October 5, 1991 Filed with Secretary of State October 7, 1991.]

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

SECTION 1. Section 1747.02 of the Civil Code is amended to read:

1747.02. As used in this title:

(a) "Credit card" means any card, plate, coupon book, or other single credit device existing for the purpose of being used from time to time upon presentation to obtain money, property, labor, or services on credit. "Credit card" does not mean any of the following:

(1) Any single credit device used to obtain telephone property, labor or services in any transaction under public utility tariffs.

(2) Any device that may be used to obtain credit pursuant to an electronic fund transfer but only if the credit is obtained under an agreement between a consumer and a financial institution to extend credit when the consumer's asset account is overdrawn or to maintain a specified minimum balance in the consumer's asset account.

(3) Any key or card key used at an automated dispensing outlet to obtain or purchase petroleum products, as defined in subdivision (c) of Section 13401 of the Business and Professions Code, which will be used primarily for business rather than personal or family purposes.

(b) "Accepted credit card" means any credit card which the cardholder has requested or applied for and received or has signed, or has used, or has authorized another person to use, for the purpose

of obtaining money, property, labor, or services on credit. Any credit card issued in renewal of, or in substitution for, an accepted credit card becomes an accepted credit card when received by the cardholder, whether the credit card is issued by the same or a successor card issuer.

(c) "Card issuer" means any person who issues a credit card or the agent of that person for that purpose with respect to the credit card.

(d) "Cardholder" means a natural person to whom a credit card is issued for consumer credit purposes, or a natural person who has agreed with the card issuer to pay consumer credit obligations arising from the issuance of a credit card to another natural person. For purposes of Sections 1747.05, 1747.10, and 1747.20, the term includes any person to whom a credit card is issued for any purpose, including business, commercial, or agricultural use, or a person who has agreed with the card issuer to pay obligations arising from the issuance of such a credit card to another person.

(e) "Retailer" means every person other than a card issuer who furnishes money, goods, services, or anything else of value upon presentation of a credit card by a cardholder.

(f) "Unauthorized use" means the use of a credit card by a person, other than the cardholder, (1) who does not have actual, implied, or apparent authority for that use and (2) from which the cardholder receives no benefit. "Unauthorized use" does not include the use of a credit card by a person who has been given authority by the cardholder to use the credit card. Any attempted termination by the cardholder of the person's authority is ineffective as against the card issuer until such time as the cardholder complies with such procedures as may be required by the card issuer to terminate that authority. Notwithstanding the above, following the card issuer's receipt of oral or written notice from a cardholder indicating that it wishes to terminate the authority of a previously authorized user of a credit card, the card issuer shall follow its usual procedures for precluding any further use of a credit card by an unauthorized person.

(g) An "inquiry" is a writing which is posted by mail to the address of the card issuer to which payments are normally tendered, unless another address is specifically indicated on the statement for that purpose, then to that other address, and which is received by the card issuer no later than 60 days after the card issuer transmitted the first periodic statement that reflects the alleged billing error, and which:

(1) Sets forth sufficient information to enable the card issuer to identify the cardholder and the account;

(2) Sufficiently identifies the billing error; and

(3) Sets forth information providing the basis for the cardholder's belief that the billing error exists.

(h) A "response" is a writing which is responsive to an inquiry and mailed to the cardholder's address last known to the card issuer.

(i) A "timely response" is a response which is mailed within two

complete billing cycles, but in no event later than 90 days, after the card issuer receives an inquiry.

(j) A "billing error" means an error by omission or commission in (1) posting any debit or credit, or (2) in computation or similar error of an accounting nature contained in a statement given to the cardholder by the card issuer. A "billing error" does not mean any dispute with respect to value, quality or quantity of goods, services or other benefit obtained through use of a credit card.

(k) "Adequate notice" means a printed notice to a cardholder which sets forth the pertinent facts clearly and conspicuously so that a person against whom it is to operate could reasonably be expected to have noticed it and understood its meaning.

(*l*) "Secured credit card" means any credit card issued under an agreement or other instrument which pledges, hypothecates, or places a lien on real property or money or other personal property to secure the cardholder's obligations to the card issuer.

SEC. 2. Section 1747.94 is added to the Civil Code, to read:

1747.94. (a) In addition to any other disclosures required by law, a card issuer of a secured credit card shall, in every advertisement or solicitation to prospective cardholders, expressly identify the credit instrument offered as a "secured credit card" and prominently disclose that credit extended under the secured credit card is secured, and shall describe the security by item or type.

(b) Any deed of trust executed in connection with a secured credit card shall contain a statement that it is security for a secured credit card obligation. However, failure to include the statement shall not invalidate the deed of trust.

(c) This section does not apply to either of the following:

(1) Any credit card which is issued under an agreement or other instrument creating a purchase money security interest in property purchased with the credit card, but which does not pledge, hypothecate, or place a lien on other property of the cardholder or any co-obligor.

(2) Loans or extensions of credit subject to the Federal Home Equity Loan Consumer Protection Act of 1988 (P. L. 100-709).

(d) Any violation of this section shall constitute unfair competition within the meaning of Section 17200 of the Business and Professions Code.

CHAPTER 609

An act relating to the payment of judgments and settlement claims against the State of California, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 5, 1991. Filed with Secretary of State October 7, 1991.]

I am reducing the appropriation contained in Section 1 of Senate Bill No. 67 from $3,087,000 [$3,087,060] to $1,350,000 [$1,350,060] by eliminating the following:

(e) $250,000 from Items 4440-001-001 and 4440-001-011 of the Budget Act of 1990 to the Attorney General for the case of Lynch v. Hollingsworth, et al. (Superior Ct., San Luis Obispo Co., Case No. 63019).

(f) $100,000 from Item 0820-001-001 of the Budget Act of 1990 to the Attorney General for the case of Julia Cruz v. City of Los Angeles, et al. (Superior Ct., Los Angeles Co., Case No. 658423).

(g) $212,000 from Item 2720-001-044 of the Budget Act of 1990 to the Attorney General for the case of Beckman v. Tavarez, et al., (United States District Court, Northern Division, California, Case No. C89-4502 MHP).

(i) $150,000 from Item 5240-001-001 of the Budget Act of 1990 to the Attorney General for the case of Garcia v. Ybarra, et al. (Superior Ct., Santa Clara Co., Case No. 600505)

(j) $900,000 from Item 5240-001-001 of the Budget Act of 1990 to the Attorney General for the case of Gamache v. State of California, et al. (Superior Ct., San Luis Obispo Co., Case No. 92792)

(k) $125,000 from Item 5160-001-001 of the Budget Act of 1990 to the Attorney General for the case of Jack Reed v. State of California, Department of Rehabilitation, et al. (Superior Ct., Los Angeles Co., Case No C741587)

The appropriations for categories (e), (f), (g), (i), (j), and (k) are unnecessary. These claims have been paid or will be paid by the affected departments through a process which certifies availability of funds from within existing budgeted resources.

With the above deletions, I hereby approve Senate Bill No. 67

PETE WILSON, Governor

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

SECTION 1. The sum of three million eighty-seven thousand sixty dollars ($3,087,060) is hereby appropriated for allocation to pay the following judgments and settlement claims pursuant to the following schedule:

(a) One hundred forty thousand dollars ($140,000) from Item 8560-001-510 of Section 2.00 of Chapter 467 of the Statutes of 1990 (Budget Act of 1990) to the Attorney General for the case of Wright v. State of California (Superior Ct., Sacramento Co., Case No. 508729).

(b) Three hundred fifty-two thousand five hundred sixty dollars ($352,560) from the General Fund to the Attorney General for the case of Orange County Harbors, Beaches and Parks Districts v. Gray Davis and the State of California (Superior Ct. Los Angeles Co., Case No. C649059).

(c) Eighty-seven thousand five hundred dollars ($87,500) from Item 4440-011-001 of Section 2.00 of Chapter 118 of the Statutes of 1991 (Budget Act of 1991) to the Attorney General for the case of Swigert v. State of California (Superior Ct., Napa Co., Case No. 55025).

(d) Two hundred forty-five thousand dollars ($245,000) from the Motor Vehicle Account in the State Transportation Fund to the Attorney General for the case of Guzman v. State of California (Superior Ct., Fresno Co., Case No. 370520-9).

(e) Two hundred fifty thousand dollars ($250,000) from Items 4440-001-001 and 4440-001-011 of Chapter 467 of the Statutes of 1990 (Budget Act of 1990) to the Attorney General for the case of Lynch v. Hollingsworth, et al. (Superior Ct., San Luis Obispo Co., Case No. 63019).

(f) One hundred thousand dollars ($100,000) from Item 0820-001-001 of Chapter 467 of the Statutes of 1990 (Budget Act of 1990) to the Attorney General for the case of Julia Cruz v. City of Los Angeles, et al. (Superior Ct., Los Angeles Co., Case No. 658423).

(g) Two hundred twelve thousand dollars ($212,000) from Item 2720-001-044 of Chapter 467 of the Statutes of 1990 (Budget Act of 1990) to the Attorney General for the case of Beckman v. Tavarez, et al. (United States District Court, Northern Division, California, Case No. C89-4502 MHP).

(h) One hundred twenty-five thousand dollars ($125,000) from the General Fund of Chapter 118 of the Statutes of 1991 (Budget Act of 1991) to the Attorney General for the case of Georgianne Cowan v. John Hernandez, et al. (Superior Ct., Los Angeles Co., Case No. 139004).

(i) One hundred fifty thousand dollars ($150,000) from Item 5240-001-001 of Chapter 467 of the Statutes of 1990 (Budget Act of 1990) to the Attorney General for the case of Garcia v. Ybarra, et al. (Superior Ct., Santa Clara Co., Case No. 600505).

(j) Nine hundred thousand dollars ($900,000) from Item 5240-001-001 of Chapter 467 of the Statutes of 1990 (Budget Act of 1990) to the Attorney General for the case of Gamache v. State of California, et al. (Superior Ct., San Luis Obispo Co., Case No. 92792).

(k) One hundred twenty-five thousand dollars ($125,000) from Item 5160-001-001 of Chapter 467 of the Statutes of 1990 (Budget Act of 1990) to the Attorney General for the case of Jack Reed v. State of California, Department of Rehabilitation, et al. (Superior Ct., Los Angeles Co., Case No. C741587).

(*l*) Seventy thousand dollars ($70,000) from the Prison Industries Revolving Fund to the Attorney General for the case of Tate v. State of California, et al.

(m) Up to three hundred thirty thousand dollars ($330,000) from Item 2720-001-044 of Chapter 118 of the Statutes of 1991 (Budget Act of 1991) to the Attorney General for the case of Holm v. State of California, et al., upon approval of the Director of Finance or his or her designee.

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

In order to pay judgments and settlement claims against the state

and end hardship to claimants as quickly as possible, it is necessary for this act to take effect immediately.

CHAPTER 610

An act to add Section 1502.4 to the Health and Safety Code, and to amend Sections 4094, 4095, 11460, 11462, and 11467 of, and to repeal Section 11462.1 of, the Welfare and Institutions Code, relating to youth, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 6, 1991 Filed with Secretary of State October 7, 1991.]

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

SECTION 1. Section 1502.4 is added to the Health and Safety Code, to read:

1502.4. (a) (1) A community care facility licensed as a group home for children pursuant to this chapter may accept for placement, and provide care and supervision to, a child assessed as seriously emotionally disturbed as long as the child does not need inpatient care in a licensed health facility.

(2) For the purpose of this chapter, the following definitions shall apply:

(A) "Inpatient care in a licensed health facility" means care and supervision at a level greater than incidental medical services as specified in Section 1507.

(B) "Seriously emotionally disturbed" means the same as paragraph (2) of subdivision (a) of Section 5600.3 of the Welfare and Institutions Code.

(b) If a child described in subdivision (a) is placed into a group home program classified at rate classification level 13 or rate classification level 14 pursuant to paragraph (3) of subdivision (g) of Section 11462 of the Welfare and Institutions Code, the licensee shall meet all of the following requirements:

(1) (A) (i) The licensee shall agree to accept, for placement into its group home program, only children who have been certified by the local mental health program, except as specified in subparagraph (B).

(ii) The certification required by clause (i) shall indicate that the child has been determined by the local mental health program to be seriously emotionally disturbed and the child needs the level of care and supervision provided in the group home program.

(B) Any licensed group home program that, during the 1990–91 fiscal year, provided the level of care and services necessary to generate sufficient points in the ratesetting process to be classified at RCL 13 or 14 and projected that it would provide that level of care

and services in the 1990–91 and 1991–92 fiscal year rate applications, with children in placement on the date of the mental health program certification, as required by subdivision (c) of Section 11462 of the Welfare and Institutions Code, shall not be required to obtain the certification of children in placement required by subdivision (g) of Section 11462 of the Welfare and Institutions Code.

(2) (A) The local mental health program has certified that the group home program includes a mental health treatment program suited to meet the mental health treatment needs of the children in placement.

(B) The certification required by subparagraph (A) shall be based on the local mental health program's criteria.

(3) The State Department of Mental Health may, at the request of the counties, provide the certification required by paragraph (2) for group home programs that exist prior to implementation of this section.

(c) (1) The department shall not evaluate, or have any responsibility or liability with regard to the evaluation of, the mental health treatment services provided pursuant to this section and paragraph (3) of subdivision (g) of Section 11462 of the Welfare and Institutions Code.

(2) Except for the certification of any group home program pursuant to this section, the State Department of Mental Health shall not evaluate or have any liability with regard to the evaluation of mental health treatment services provided pursuant to this section and paragraph (2) of subdivision (g) of Section 11462 of the Welfare and Institutions Code.

(d) (1) The local mental health program shall notify the department's licensing office immediately upon the termination of the contract for the mental health treatment program on which the certification required by paragraph (2) of subdivision (b) was based.

(2) If the certification described in paragraph (1) is not based on a contract between the local mental health program and the licensee, the State Department of Mental Health or the local mental health program, as appropriate, shall notify the department's licensing office immediately upon the termination of the mental health treatment program on which the certification required by paragraph (2) or (3) of subdivision (b) was based.

(e) Subdivisions (b) and (d) shall remain operative only until June 30, 1992.

SEC. 2. Section 4094 of the Welfare and Institutions Code is amended to read:

4094. (a) The State Department of Mental Health shall establish, by regulation, program standards for any facility licensed as a community treatment facility providing mental health treatment services to seriously emotionally disturbed children, as defined in paragraph (2) of subdivision (a) of Section 5600.3, pursuant to subdivision (a) of Section 1502 of the Health and Safety Code. This section shall apply only to community treatment facilities described

in this subdivision.

(b) A certification of compliance issued by the State Department of Mental Health shall be a condition of licensure for the community treatment facility by the State Department of Social Services.

(c) The State Department of Mental Health shall adopt regulations to include, but not be limited to, the following:

(1) Procedures by which the Director of Mental Health shall certify that a facility requesting licensure as a community treatment facility pursuant to Section 1502 of the Health and Safety Code is in compliance with program standards established pursuant to this section.

(2) Procedures by which the Director of Mental Health shall deny a certification to a facility or decertify a facility licensed as a community treatment facility pursuant to Section 1502 of the Health and Safety Code, but no longer complying with program standards established pursuant to this section, in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

(3) Provisions for site visits by the State Department of Mental Health for the purpose of reviewing a facility's compliance with program standards established pursuant to this section.

(4) Provisions for the community care licensing staff of the State Department of Social Services to report to the State Department of Mental Health when there is reasonable cause to believe that a community treatment facility is not in compliance with program standards established pursuant to this section.

(5) Provisions for the State Department of Mental Health to provide consultation and documentation to the State Department of Social Services in any administrative proceeding regarding denial, suspension, or revocation of a community treatment facility license.

(d) The standards adopted by regulations pursuant to subdivision (a) shall include, but not be limited to, standards for treatment staffing and for the use of psychotropic medication, discipline, and restraint in the facilities.

(e) The sum of forty-five thousand dollars ($45,000) is hereby appropriated annually from the General Fund to the State Department of Mental Health for one personnel year to carry out the provisions of this section.

(f) Notwithstanding Section 13340 of the Government Code, the sum of fifty-five thousand dollars ($55,000) is continuously appropriated annually, without regard to fiscal years, from the General Fund to the Attorney General for purposes of representing the State Department of Mental Health when a facility appeals denial of certification or decertification as provided in this section.

SEC. 3. Section 4095 of the Welfare and Institutions Code is amended to read:

4095. (a) It is the intent of the Legislature that essential and culturally relevant mental health assessment, case management, and treatment services be available to court wards and dependents

placed out-of-home or who are at risk of requiring out-of-home care. This can be best achieved at the community level through the active collaboration of county social service, probation, education, mental health agencies, and foster care providers.

(b) Therefore, using the Children's Mental Health Services Act (Part 4 (commencing with Section 5850) of Division 5) as a guideline, the State Department of Mental Health, in consultation with the California Conference of Local Mental Health Directors, the State Department of Social Services, the County Welfare Directors Association, the Chief Probation Officer's Association, county alcohol and drug program administrators, and foster care providers, shall do all of the following:

(1) By July 1, 1992, develop an individualized mental health treatment needs assessment protocol for court wards and dependents.

(2) By October 1, 1993, establish and maintain a special system of per child payments for supplemental mental health services rendered to court wards and dependents pursuant to this section. This payment system shall ensure that children are served according to state-level priorities, and that similar children are served similarly statewide, to the extent of appropriations available through the annual Budget Act to implement this section. The payment system shall encourage utilization of other resources where possible, including Medi-Cal reimbursement. It is the intent of the Legislature that the payment system shall be flexible so that services may be provided in the most appropriate setting and in the most cost-effective manner.

(3) By October 1, 1993, the department shall, for the purposes of implementing this section, establish guidelines for rates, payment, and subsets of target populations to be served, for supplemental mental health services rendered to court wards and dependents. These guidelines shall include, but not be limited to, data collection, cost reporting, and types of placement resources receiving county mental health funds. These guidelines shall remain in effect until the special system of payments is established, in accordance with paragraph (2).

(4) By January 1, 1993, establish, by regulation, all of the following:

(A) Definitions of priority ranking of subsets of the court wards and dependents target population.

(B) Definitions of priority supplemental services, including, but not limited to, services defined in Title IX (commencing with Section 7030) of the California Code of Regulations as of January 1, 1992, and family therapy, prevocational services, crisis support, family support, therapeutic respite activities, and therapeutic milieu activities, to be available to the target population.

(C) A certification procedure, to be employed by the local mental health director, which assures that only mental health services approved by the local mental health director shall be eligible for reimbursement under this section.

(5) Require that interagency collaboration and program services are structured in a manner which will facilitate future implementation of the goals of the Children's Mental Health Services Act. Components shall be added to the plans and contracts which specifically address the procedures to be implemented by the county in meeting the provisions of this section. The components are to be developed in collaboration with the county social services and probation departments. Plans and contracts submitted for department approval shall document that the procedures to be implemented in compliance with this section have been approved by the county social services department and the county probation department pursuant to an interagency agreement.

(c) (1) Only those individuals within the target population as defined in regulation and determined to be eligible for services as a result of a mental health treatment needs assessment may receive services pursuant to this section.

(2) Allocation of funds appropriated for the purposes of this section shall be based on the number of wards and dependents identified pursuant to paragraphs (3) and (4) of subdivision (b).

(3) The counties shall be held harmless for failure to provide assessment and treatment services to those children identified in need of services for whom there is no funding.

(d) It is the intent of the Legislature to limit supplemental mental health treatment rates for the target population of this section to rates established pursuant to paragraphs (2), (3), and (4) of subdivision (b), effective October 1, 1993, and to reduce the impact of competition for scarce treatment resources on the cost and availability of care. The State Department of Mental Health, in consultation with the State Department of Social Services and appropriate organizations, including organizations representing service providers, shall develop a plan to accomplish this intent that addresses the access to, and availability of, mental health treatment for the target population. This plan shall be submitted to the Legislature by October 1, 1993.

(e) The department shall annually report to the Legislature on the service populations provided mental health treatment services pursuant to this section, the types and costs of services provided, and the number of children identified in need of treatment services who did not receive the services.

SEC. 3.5. Section 11460 of the Welfare and Institutions Code is amended to read:

11460. (a) Foster care providers shall be paid a per child per month rate in return for the care and supervision of the AFDC-FC child placed with them. The department is designated the single organizational unit whose duty it shall be to administer a state system for establishing rates in the AFDC-FC program. State functions shall be performed by the department or by delegation of the department to county welfare departments.

(b) "Care and supervision" includes food, clothing, shelter, daily

supervision, school supplies, a child's personal incidentals, liability insurance with respect to a child, and reasonable travel to the child's home for visitation.

(1) For a child placed in a group home, care and supervision shall also include reasonable administration and operational activities necessary to provide the items listed in this subdivision.

(2) For a child placed in a group home, care and supervision may also include reasonable activities performed by social workers employed by the group home provider which are not otherwise considered daily supervision or administration activities.

(c) It is the intent of the Legislature to establish the maximum level of state participation in out-of-state foster care group home program rates effective January 1, 1992.

(1) The department shall develop regulations that establish the method for determining the level of state participation for each out-of-state group home program. The department shall consider all of the following methods:

(A) A standardized system based on the level of care and services per child per month as detailed in Section 11462.

(B) A system which considers the actual allowable and reasonable costs of care and supervision incurred by the program.

(C) A system which considers the rate established by the host state.

(D) Any other appropriate methods as determined by the department.

(2) State reimbursement for the AFDC-FC group home rate to be paid to an out-of-state program on or after January 1, 1992, shall only be paid to programs which have done both of the following:

(A) Submitted a rate application to the department and received a determination of the level of state participation.

(i) The level of state participation shall not exceed the current fiscal year's standard rate for rate classification level 14.

(ii) The level of state participation shall not exceed the rate determined by the ratesetting authority of the state in which the facility is located.

(iii) The level of state participation shall not decrease for any child placed prior to January 1, 1992, who continues to be placed in the same out-of-state group home program.

(B) Agreed to comply with information requests, and program and fiscal audits as determined necessary by the department.

(d) A foster care provider that accepts payments, following the effective date of this section, based on a rate established under this section, shall not receive rate increases or retroactive payments as the result of litigation challenging rates established prior to the effective date of this section. This shall apply regardless of whether a provider is a party to the litigation or a member of a class covered by the litigation.

(e) Nothing shall preclude a county from using a portion of its county funds to increase rates paid to family homes and foster family

agencies within that county, and to make payments for specialized care increments, clothing allowances, or infant supplements to homes within that county, solely at that county's expense.

SEC. 4. Section 11462 of the Welfare and Institutions Code is amended to read:

11462. (a) Effective July 1, 1990, foster care providers licensed as group homes, as defined in departmental regulations, including public child care institutions, as defined in Section 11402.5, shall have rates established by classifying each group home program and applying the standardized schedule of rates. The department shall collect information from group providers beginning January 1, 1990, in order to classify each group home program.

(b) A group home program shall be initially classified, for purposes of emergency regulations, according to the level of care and services to be provided using a point system developed by the department and described in the report, "The Classification of Group Home Programs under the Standardized Schedule of Rates System," prepared by the State Department of Social Services, August 30, 1989.

(c) The rate for each rate classification level (RCL) has been determined by the department with data from the AFDC-FC Group Home Rate Classification Pilot Study. The rates effective July 1, 1990, were developed using 1985 calendar year costs and reflect adjustments to the costs for each fiscal year, starting with the 1986–87 fiscal year, by the amount of the California Necessities Index computed pursuant to the methodology described in Section 11453. The data obtained by the department using 1985 calendar year costs shall be updated and revised by January 1, 1993.

(d) As used in this section, "standardized schedule of rates" means a listing of the 14 rate classification levels, the single rate established for each RCL, and the rate floor for each RCL.

(e) The standardized schedule of rates shall be phased in commencing July 1, 1990.

(1) In order to phase in the standardized schedule of rates, a "rate floor" has been established for each RCL.

(2) The rate floor for the 1990–91 fiscal year shall be 85 percent of the standard rate for each RCL. The rate floor shall be increased to 92.5 percent of the standard rate for the 1991–92 fiscal year for each RCL, and shall be equal to the standard rate for each RCL for the 1992–93 fiscal year and beyond.

(f) Except as specified in paragraph (1), the department shall determine the RCL for each group home program on a prospective basis, according to the level of care and services that the group home operator projects will be provided during the period of time for which the rate is being established.

(1) For a group home program for which the department established a rate effective prior to June 30, 1990, that took into account the program's historical costs, the department shall establish the rate for the 1990–91 fiscal year by determining the RCL on a

retrospective basis, according to the level of care and services actually provided between July 1 and December 31, 1989, or between July 1, 1989, and March 31, 1990.

(2) Group home programs that fail to maintain at least the level of care and services associated with the RCL upon which their rate was established shall inform the department. The department shall develop regulations specifying procedures to be applied when a group home fails to maintain the level of services projected, including, but not limited to, rate reduction and recovery of overpayments.

(g) (1) The standardized schedule of rates for the 1990–91 fiscal year is:

Rate Classification Level	Point Ranges	FY 1990–91 Standard Rate	FY 1990–91 Rate Floor (85%)
1	Under 60	$1,183	$1,006
2	60– 89	1,478	1,256
3	90–119	1,773	1,507
4	120–149	2,067	1,757
5	150–179	2,360	2,006
6	180–209	2,656	2,258
7	210–239	2,950	2,508
8	240–269	3,245	2,758
9	270–299	3,539	3,008
10	300–329	3,834	3,259
11	330–359	4,127	3,508
12	360–389	4,423	3,760
13	390–419	4,720	4,012
14	420 & Up	5,013	4,261

(2) As of July 1, 1992, group home programs which generate the requisite number of points for RCL 13 or 14, which only accept children with special treatment needs as determined through the assessment process in subdivision (b) of Section 11467 and which have as part of their program measurable performance standards developed by the county of placement, shall be classified at RCL 13 or 14.

(3) A group home program shall be classified at RCL 13 until July 1, 1992, as long as the group home program meets all of the following requirements:

(A) The group home program is providing or has proposed to provide the level of care and services necessary to generate sufficient points in the ratesetting process to be classified at RCL 13.

(B) (i) The group home provider shall agree to accept for placement into its group home program only children who have been certified by the local mental health program, except as specified in clause (iii).

(ii) The certification required by clause (i) shall indicate the child has been determined by the local mental health program to be seriously emotionally disturbed, as defined in paragraph (10), and the child needs the level of care and supervision provided in the group home program.

(iii) Any group home program that, during the 1990–91 fiscal year, provided the level of care and services necessary to generate sufficient points in the ratesetting process to be classified at RCL 13 or 14 and projected that it would provide that level of care and services in the 1990–91 and 1991–92 fiscal year rate applications, with children in placement on the date of the mental health program certification, as required by subdivision (c), shall not be required to obtain the certification of children in placement required by this subdivision.

(iv) Any child who is determined by the placing agency to need immediate emergency placement and is placed in a group home program prior to a mental health assessment and a local mental health certification as required by clause (i) shall be assessed by a licensed mental health professional within 72 hours of the emergency placement within the group home program as being seriously emotionally disturbed, as defined in paragraph (10) and in need of the level of care and supervision provided in the group home program.

(v) The group home provider shall obtain the certification as required by clauses (i) and (ii) within 30 days of the first day of placement in the group home program for each child who has been determined to need immediate emergency placement and has been assessed by a licensed mental health professional within 72 hours of the placement.

(C) (i) The local mental health program shall certify, unless the State Department of Mental Health agrees to certify, that the group home program includes provisions for mental health treatment services that meet the local mental health program's criteria, including, but not limited to, all of the following:

(I) Therapeutic milieu.

(II) Self-help skills.

(III) Behavioral interventions.

(IV) Psychosocial activities.

(V) Other therapeutic services required for the child to benefit from the program.

(ii) The certification required by clause (i) shall include assurances that the program services are available, as attested by the local mental health director.

(4) (A) The department shall set rates at RCL 13 effective the date the requirements of subparagraphs (A), (B), and (C) of paragraph (3) are met.

(B) The department shall set the rate of any group home program which met the requirements of subparagraphs (A) and (B) of paragraph (3) prior to the implementation of this section at RCL 13

effective July 1, 1991, if both of the following requirements are met:

(i) The mental health program certification required by subparagraph (C) of paragraph (3) was obtained within 90 days of the effective date of this section.

(ii) The mental health program certification required by subparagraph (C) of paragraph (3) indicates the group home program met the requirements for certification as of July 1, 1991.

(5) Notwithstanding paragraph (3), a group home program shall be classified at RCL 14 until July 1, 1992, as long as the group home program meets all of the following requirements:

(A) The group home program is providing or has proposed to provide the level of care and services necessary to generate sufficient points in the ratesetting process to be classified at RCL 14.

(B) (i) The group home provider agrees to accept for placement into its group home program only children who have been certified by the local mental health program, except as specified in clause (iii).

(ii) The certification required of clause (i) shall indicate the child has been determined by the local mental health program to be seriously emotionally disturbed, as defined in paragraph (10), and the child needs the level of care and supervision provided in the group home program.

(iii) Any group home program that, during the 1990–91 fiscal year, provided the level of care and services necessary to generate sufficient points in the ratesetting process to be classified at RCL 13 or 14 and projected that it would provide that level of care and services in the 1990–91 and 1991–92 fiscal year rate applications, with children in placement on the date of the mental health program certification, as required by subdivision (c), shall not be required to obtain the certification of children in placement required by this subdivision.

(iv) Any child who is determined by the placing agency to need immediate emergency placement and is placed in a group home program prior to a mental health assessment and a local mental health certification as required by clause (i) shall be assessed by a licensed mental health professional within 72 hours of the emergency placement within the group home program as being seriously emotionally disturbed, as defined in paragraph (10) and in need of the level of care and supervision provided in the group home program.

(v) The group home provider shall obtain the certification as required by clauses (i) and (ii) within 30 days of the first day of placement in the group home program for each child who has been determined to need immediate emergency placement and has been assessed by a licensed mental health professional within 72 hours of the placement.

(C) (i) The local mental health program shall certify, unless the State Department of Mental Health agrees to certify, that the group home program includes provisions for mental health treatment services that meet the local mental health program's criteria,

including, but not limited to, all of the following:

(I) Therapeutic milieu.

(II) Self-help skills.

(III) Behavioral interventions.

(IV) Psychosocial activities.

(V) Other therapeutic services required for the child to benefit from the program.

(ii) The certification required by clause (i) shall include assurances that the program services are available, as attested by the local mental health director.

(6) (A) The department shall set rates at RCL 14, to be effective on the date the requirements of subparagraphs (A), (B), and (C) of paragraph (5) are met.

(B) The department shall set the rate of any group home program which met the requirements of subparagraphs (A) and (B) of paragraph (3) prior to the implementation of this section at RCL 14 effective July 1, 1991, if both of the following requirements are met:

(i) The mental health program certification required by subparagraph (C) of paragraph (3) was obtained within 90 days of the effective date of this section.

(ii) The mental health program certification required by subparagraph (C) of paragraph (5) indicates the group home program met the requirements for certification as of July 1, 1991.

(7) The classification of a group home program of an existing provider at RCL 13 pursuant to paragraph (3) or RCL 14 pursuant to paragraph (5) shall be considered a program change for ratesetting purposes.

(8) Any group home program that has been classified at RCL 13 pursuant to the requirements of paragraph (3) or RCL 14 pursuant to the requirements of paragraph (5) shall be reclassified at the appropriate RCL with a commensurate reduction in rate if any of the following occurs:

(A) The group home program fails to maintain the level of care and services necessary to generate the requisite number of points for RCL 13 as required by subparagraph (A) of paragraph (3) or RCL 14 as required by subparagraph (A) of paragraph (5).

(B) The group home program accepts placement of a child who has not been certified as required by subparagraph (B) or (E) of paragraph (3) or subparagraph (B) or (E) of paragraph (5).

(C) The group home program fails to maintain a certified mental health treatment program as required by subparagraph (C) of paragraph (3), or subparagraph (C) of paragraph (5).

(9) The effective date of a reclassification and rate reduction made pursuant to paragraph (8) shall be the date of occurrence of any one of the conditions in paragraph (8).

(10) For purposes of this subdivision, a child who is seriously emotionally disturbed means a child who meets the conditions specified in paragraph (2) of subdivision (a) of Section 5600.3 and who is subject to Section 1502.4 of the Health and Safety Code.

(11) Paragraphs (3), (4), (5), (6), (7), (8), (9), and (10) shall remain operative only until July 1, 1992.

(h) (1) For the 1990–91 fiscal year, the standardized schedule of rates shall be implemented as follows:

(A) Any group home program which received an AFDC-FC rate in the prior fiscal year below the standard rate for the fiscal year 1990–91 RCL shall receive their 1989–90 rate plus an amount equal to the California Necessities Index (CNI). The rate for the 1990–91 fiscal year at which the state will participate shall not exceed the standard rate for the RCL.

(B) If the CNI increase to the group home program's 1989–90 fiscal year rate does not raise the group home program to the rate floor for the RCL, the group home program shall receive a rate equal to the rate floor for the RCL.

(C) A group home program which received an AFDC-FC rate for the 1989–90 fiscal year at or above the standard rate for the RCL for the 1990–91 fiscal year shall continue to receive the 1989–90 fiscal year rate.

(2) For the 1992–93 fiscal year and the 1993–94 fiscal year, the standardized rate for each RCL shall be adjusted by an amount equal to CNI computed pursuant to the methodology described in Section 11453. No adjustment shall be made in the standardized rate for each RCL for the 1991–92 fiscal year.

(A) Any group home program which received an AFDC-FC rate in the prior fiscal year at or above the adjusted standard rate for the RCL in the current fiscal year shall continue to receive that rate.

(B) A group home program which received an AFDC-FC rate in the prior fiscal year below the standard rate for the RCL in the current fiscal year shall receive that rate adjusted by an amount equal to the CNI. The rate for the current fiscal year shall not exceed the standard rate for the RCL and shall not be less than the rate floor for the RCL.

(3) Beginning with the 1994–95 fiscal year, the standardized schedule of rates shall be adjusted annually by an amount equal to the CNI computed pursuant to Section 11453, subject to the availability of funds.

(A) Any group home program which received an AFDC-FC rate in the prior fiscal year at or above the adjusted standard rate for the RCL in the current fiscal year shall continue to receive that rate.

(B) Any group home program which received an AFDC-FC rate in the prior fiscal year below the adjusted standard rate for the RCL in the current fiscal year shall receive the adjusted RCL rate.

(i) (1) The rate for a new group home program of a new or existing provider shall be established at the rate floor for the new program's projected RCL.

(2) The department shall not establish a rate for a new program of a new or existing provider unless the provider submits a recommendation from the host county, the primary placing county, or a regional consortium of counties that the program is needed in

that county; that the provider is capable of effectively and efficiently operating the program; and that the provider is willing and able to accept AFDC-FC children for placement who are determined by the placing agency to need the level of care and services that will be provided by the program.

(3) The department shall encourage the establishment of consortia of county placing agencies on a regional basis for the purpose of making decisions and recommendations about the need for, and use of, group home programs and other foster care providers within the regions.

(4) The department shall annually conduct a county-by-county survey to determine the unmet placement needs of children placed pursuant to Sections 300 and Section 601 or 602, and shall publish its findings by November 1 of each year.

(j) The department shall develop regulations specifying ratesetting procedures for program expansions, reductions, or modifications, including increases or decreases in licensed capacity, or increases or decreases in level of care or services.

(k) General unrestricted or undesignated private charitable donations and contributions made to charitable or nonprofit organizations shall not be deducted from the cost of providing services pursuant to this section.

(*l*) The department shall, by October 1 each year, commencing October 1, 1992, provide the Joint Legislative Budget Committee with a list of any new departmental requirements established during the previous fiscal year concerning the operation of group homes, and of any unusual, industrywide increase in costs associated with the provision of group care which may have significant fiscal impact on providers of group homes care. The committee may, in fiscal year 1993–94 and beyond, use the list to determine whether an appropriation for rate adjustments is needed in the subsequent fiscal year.

(m) Following the initial implementation of the group home ratesetting system described in this section, the department, with the advice and assistance of the counties and representatives of providers of group home care, may submit to the Legislature recommendations to modify the program classification point system, number of rate classification levels, amounts that make up the standardized schedule of rates, or other components of the system. These recommendations shall be based on the department's review and evaluation of the program classification system, group home cost data collected pursuant to Section 11466.3, and information from the Group Home Program Statements and Level of Care Assessments specified in Section 11467.

(n) This section shall remain in effect only until July 1, 1995, and as of that date is repealed, unless a later enacted statute, which becomes effective on or before July 1, 1995, deletes or extends that date.

SEC. 4.5. Section 11462.1 of the Welfare and Institutions Code is

repealed.

SEC. 5. Section 11467 of the Welfare and Institutions Code is amended to read:

11467. (a) By July 1, 1992, the State Department of Social Services, in consultation with the counties and foster care providers, shall develop a standard format for group home program statements for ratesetting, community care licensing, and county placement purposes.

(b) By July 1, 1992, the State Department of Social Services, in consultation with the State Department of Mental Health and the counties, shall develop a Level of Care Assessment Instrument which shall match the assessed needs of the dependent child and his or her family with the services provided at each Rate Classification Level established pursuant to Section 11462.

(c) By July 1, 1992, the State Department of Social Services, in consultation with the State Department of Mental Health, the Department of the Youth Authority, county probation departments, foster care providers, and the counties, shall develop a Level of Care Assessment Instrument which shall match the assessed needs of the ward and his or her family with the services provided by placement facilities at each Rate Classification Level established pursuant to Section 11462.

(d) The Level of Care Assessment Instrument developed pursuant to subdivisions (b) and (c) shall include specified indicators of a child's need for a mental health treatment needs assessment which is available to a child pursuant to Section 5407. The State Department of Social Services, in consultation with the State Department of Mental Health, the Department of the Youth Authority, county probation departments, foster care providers, and the counties, shall specify the criteria for determining when a mental health treatment needs assessment shall be conducted pursuant to Section 5407.

(e) No later than January 1, 1993, the department shall report to the Legislature on the requirements specified in subdivisions (a) to (d), inclusive.

SEC. 6. The State Department of Social Services shall study the need for Rate Classification Level 13 and Rate Classification Level 14, as provided for in Section 11462 of the Welfare and Institutions Code, for categories of children including, but not limited to, children with special health care needs and children adjudicated pursuant to Sections 601 or 602 of the Welfare and Institutions Code. The study shall include evaluation of the need for different or additional licensing categories and program standards which may need to be implemented for these categories of children.

SEC. 7. The State Department of Social Services shall adopt any regulations necessary to implement Sections 1, 3.5, and 4 of this act as emergency regulations in accordance with the provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. For purposes of the

Administrative Procedure Act, the adoption of regulations shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health and safety, or general welfare. These regulations shall not be subject to the review and approval of the Office of Administrative Law and shall become effective immediately upon filing with the Secretary of State. The regulations shall not remain in affect more than 120 days, for regulations implementing Section 3.5, and one year, for regulations implementing Sections 1 and 4, unless the department complies with all of the provisions of Chapter 3.5 (commencing with Section 11340) as required by subdivision (e) of Section 11346.1 of the Government Code.

SEC. 8. The State Department of Mental Health and the State Department of Social Services shall initially adopt regulations pursuant to Section 2 of this act as emergency regulations in accordance with the provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. For purposes of the Administrative Procedure Act, the adoption of the regulations shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health and safety, or general welfare. These regulations shall not be subject to the review and approval of the Office of Administrative Law and shall not be subject to automatic repeal until 180 days after the regulations take effect and shall become effective immediately upon filing with the Secretary of State. The emergency regulations adopted pursuant to this act shall not, at any time, be subject to Sections 5400 or 5750 of the Welfare and Institutions Code. The regulations required by this act to be adopted by the State Department of Mental Health and the State Department of Social Services shall be adopted simultaneously. The initial public comment period required by the Administrative Procedure Act shall run concurrently and the public hearing required by the Administrative Procedure Act shall be scheduled for the same day at the same locations.

SEC. 9. Notwithstanding any other provision of law, up to one hundred fifty thousand dollars ($150,000) of the amount identified in paragraph (5) of subdivision (c) of Section 17601 of the Welfare and Institutions Code, may be transferred to Item 4440-001-001 of the Budget Act of 1991 for the purposes of implementation by the State Department of Mental Health on behalf of the counties of Sections 1 and 4 of this act.

Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund.

Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

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

In order to ensure adequate protections are in place to provide for a healthful and safe environment for children eligible for rate classification level 13 and rate classification level 14, and in order to implement the provision of services through community treatment facilities, it is necessary that this act take effect immediately.

CHAPTER 611

An act to amend Sections 209, 255, and 265 of, to repeal and add Section 266 of, and to add Section 275 to, the Health and Safety Code, to amend Sections 225.05, 1806, 4012, 4017, 4033, 4050, 4071, 4075, 4091, 4094, 4095, 4330, 4331, 4332, 4333, 4341, 4342, 4353, 4356, 4360, 5402, 5403, 5600.1, 5600.2, 5600.3, 5600.4, 5600.5, 5600.7, 5600.9, 5604.2, 5610, 5651, 5651.2, 5672, 5695.7, 5704, 5705, 5711, 5712, 5714, 5716, 5721, 5722, 5724, 5750, 5750.1, 5764, 5802, 5851, 5905, 10604.5, 14153, 16800, 16801, 16803, 16808.1, 16809, 16809.3, 16812, 16817, 17000.5, 17600, 17600.15, 17600.20, 17601, 17602, 17603, 17603.05, 17604, 17605, 17605.15, 17606, 17606.05, 17606.10, 17606.15, 17606.20, 17608.05, 17608.10, 17609, 17609.05, 18986.21, and 18988 of, to amend and renumber Sections 5600.2, 5692, 5692.5, 5699, 5699.1, 5699.2, and 17602.05 of, to add Sections 10604.6, 17601.10, 17604.05, 17609.01, and 17609.10 to, to repeal Sections 1807, 1808, 1809, 1810, 1811, 1812, and 17608 of, and to add Article 2 (commencing with Section 5680) to Chapter 2.5 of Part 2 of Division 5 of, and to repeal Article 2 (commencing with Section 5681) of Chapter 2.5 of Part 2 of Division 5 of, the Welfare and Institutions Code, and to amend Sections 202 and 203 of Chapter 89 of the Statutes of 1991, relating to public social services, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 6, 1991. Filed with Secretary of State October 7, 1991.]

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

SECTION 1. Section 209 of the Health and Safety Code is amended to read:

209. (a) The director shall conduct a comprehensive review of the statutes governing the protection of the public health, as principally embodied in this code. The review shall be conducted by

the director in cooperation with county and city representatives and the California Conference of Local Health Officers and shall produce the following:

(1) A list of those sections of law that should be deleted due to ambiguity, conflict with other statutes, inappropriateness, or obsolescence.

(2) A reorganization by chapter and section for all public health laws.

(3) Recommendations regarding new or expanded legislation that should be added to balance or provide equity, avoid conflict, or meet defined needs.

(4) A process to provide continuous review of public health statutes and regulations to avoid obsolescence and identify need for new legislation.

(b) A report shall be submitted to the Legislature at the conclusion of the review, but no later than April 1, 1993. The report shall address the objectives of the review, specified in subdivision (a) and shall be jointly submitted by the director, county and city representatives, and the California Conference of Local Health Officers, with addendums as appropriate to further explain the recommendations of any party.

SEC. 2. Section 255 of the Health and Safety Code is amended to read:

255. The department shall establish uniform standards of financial eligibility for treatment services under the California Children's Services Program. Financial eligibility for treatment services under this program shall be limited to persons in families with an adjusted gross income of forty thousand dollars ($40,000) or less in the most recent tax year, as calculated for California state income tax purposes. However, the director may authorize treatment services for persons in families with higher incomes if the estimated cost of care to the family in one year is expected to exceed 20 percent of the family's adjusted gross income.

Necessary medical therapy treatment services under the California Children's Services Program rendered in the public schools shall be exempt from financial eligibility standards and enrollment fee requirements for such services when rendered to any handicapped child whose educational or physical development would be impeded without such services.

All counties shall use the uniform standards for financial eligibility and enrollment fees established by the department. All enrollment fees shall be used in support of the California Children's Services Program.

SEC. 3. Section 265 of the Health and Safety Code is amended to read:

265. (a) (1) Annually, the board of supervisors shall appropriate a sum of money for services for handicapped children of the county, including diagnosis, treatment, and therapy services for physically handicapped children in public schools, equal to 25 percent of the

actual expenditures for the county program under this article for the 1990–91 fiscal year, except as specified in paragraph (2).

(2) If the state certifies that a smaller amount is needed in order for the county to pay 25 percent of costs of the county's program from this source. The smaller amount certified by the state shall be the amount which the county shall appropriate.

(b) In addition to the amount required by subdivision (a), the county shall allocate an amount equal to the amount determined pursuant to subdivision (a) for purposes of this article from revenues allocated to the county pursuant to Chapter 6 (commencing with Section 17600) of Division 9 of the Welfare and Institutions Code.

(c) The state shall match county expenditures for this article from funding provided pursuant to subdivisions (a) and (b).

(d) The county may appropriate and expend moneys in addition to those set forth in subdivision (a) and (b) and the state shall match the expenditures, on a dollar-for-dollar basis, to the extent that state funds are available for this article.

(e) Nothing in this section shall require the county to expend more than the amount set forth in subdivision (a) plus the amount set forth in subdivision (b) nor shall it require the state to expend more than the amount of the match set forth in subdivision (c).

SEC. 4. Section 266 of the Health and Safety Code is repealed.

SEC. 5. Section 266 is added to the Health and Safety Code, to read:

266. For those counties with a total appropriation of county funds not exceeding one hundred twenty-five thousand dollars ($125,000), and upon the expenditure of the county funds equivalent to a county appropriation pursuant to Section 265, the state department may, to the extent funds are available from state appropriated funds for the California Children's Services Program and upon certification of the county that there are insufficient revenues from the account established pursuant to Chapter 6 (commencing with Section 17600) of Division 9 of the Welfare and Institutions Code, pay for services for cases deemed by the state department to represent emergencies or cases where medical care cannot be delayed without great harm to the child.

SEC. 6. Section 275 is added to the Health and Safety Code, to read:

275. (a) The state department shall require all applicants to the program who may be eligible for cash grant assistance or for Medi-Cal benefits to apply for Medi-Cal.

(b) This section shall not be interpreted to prohibit the coverage of services in emergency cases.

SEC. 7. Section 225.05 of the Welfare and Institutions Code is amended to read:

225.05. (a) The Department of the Youth Authority shall convene a task force to identify and recommend methods of achieving better coordination of, and savings, in the continuum of correctional, rehabilitative, and preventive services for youthful

offenders, including status offenders adjudicated pursuant to Section 601 and delinquents adjudicated pursuant to Sections 602 and 707. The department shall report on the findings and recommendations of the task force to the Legislature no later than January 15, 1992.

(b) The task force shall develop recommendations for achieving the following:

(1) The use of local community corrections options, including innovative methods of providing delinquency prevention and treatment programs.

(2) Innovative, intensive programs for wards committed to the Department of the Youth Authority facilities.

(3) Coordination with state and local programs which provide treatment and services to youthful offenders.

(4) Restructuring current state and local juvenile justice funding mechanisms in order to provide fiscal and program incentives for the utilization of local juvenile justice treatment and services, including, but not limited to, the utilization of a negotiated net amount or rate model pursuant to Section Article 3 (commencing with Section 5700) of Chapter 2 of Part 1, for payment of costs associated with commitment of wards to the Department of the Youth Authority facilities.

(5) (A) Appropriate funding of juvenile justice programs contained in county realignment under Section 17602, including all of the following provisions:

(i) Article 25.4 (commencing with Section 894) of Chapter 2 of Division 2.

(ii) Article 5.5 (commencing with Section 1790) of Chapter 1 of Division 2.5.

(iii) Article 7 (commencing with Section 1805) of Chapter 1 of Division 2.5.

(iv) Article 10 (commencing with Section 1900) of Chapter 1 of Division 2.5.

(B) The task force shall recommend both short-term and long-term funding solutions for the programs specified in subparagraph (A), including recommendations for appropriate state and local agency responsibility for determining funding levels, program administration, oversight, and evaluation.

(c) The task force shall be composed of persons knowledgeable in delinquency prevention programs, juvenile justice issues, and alternative juvenile justice models, including representatives of the Department of the Youth Authority, the State Department of Social Services, the Chief Probation Officers Association, the County Supervisors Association of California, the County Welfare Directors Association, the Juvenile Court Judges of California, and county and private nonprofit agencies involved with juvenile justice services. In developing its recommendations, the task force shall consult with representatives of providers of group home care for delinquent minors.

SEC. 8. Section 1806 of the Welfare and Institutions Code is

amended to read:

1806. (a) From any state moneys made available to it for the program, commencing with fiscal year 1983–84, the Department of the Youth Authority shall provide funds to counties for the following purposes:

(1) To develop and maintain local programs for minors and adults who are eligible for commitment to the Department of Corrections or to the Department of the Youth Authority or who are considered to be at a high risk of becoming eligible for commitment.

(2) To maintain local programs for minors who have been found to be persons described by Section 602 and who are committed to a juvenile hall or to a juvenile home, ranch, camp, or forestry camp established pursuant to Sections 850 and 880.

(3) To develop and maintain programs to prevent crime and delinquency by persons who are not wards of the juvenile court or under court ordered probation supervision or serving a sentence as a result of a conviction in a court of criminal jurisdiction.

(4) To maintain programs or services required or authorized by Chapter 1071 of the Statutes of 1976.

(5) To provide funding for necessary county administrative expenses for the county justice system block grant program.

(b) In utilizing funds for the purposes set forth in subdivision (a), counties shall give primary consideration to programs which are local alternatives to the commitment of minors and adults to the Department of Corrections or the Department of the Youth Authority.

(c) Funds granted to counties under this article shall not be used for capital construction; for travel outside of the State of California; for law enforcement investigation or apprehension purposes; for the expense of prosecution or defense, except to the extent required by Chapter 1071 of the Statutes of 1976; or for the costs of confinement or detention in a jail, juvenile hall, or other secure lockup prior to sentencing or disposition by the court.

SEC. 9. Section 1807 of the Welfare and Institutions Code is repealed.

SEC. 10. Section 1808 of the Welfare and Institutions Code is repealed.

SEC. 11. Section 1809 of the Welfare and Institutions Code is repealed.

SEC. 12. Section 1810 of the Welfare and Institutions Code is repealed.

SEC. 13. Section 1811 of the Welfare and Institutions Code is repealed.

SEC. 14. Section 1812 of the Welfare and Institutions Code is repealed.

SEC. 15. Section 4012 of the Welfare and Institutions Code is amended to read:

4012. The State Department of Mental Health may:

(a) Disseminate educational information relating to the

prevention, diagnosis and treatment of mental disorder.

(b) Upon request, advise all public officers, organizations and agencies interested in the mental health of the people of the state.

(c) Conduct such educational and related work as will tend to encourage the development of proper mental health facilities throughout the state.

(d) Coordinate state activities involving other departments whose actions affect mentally ill persons.

(e) Coordinate with, and provide information to, other states and national organizations, on issues involving mental health.

(f) Disseminate information and federal and private foundation funding opportunities to counties and cities that administer mental health programs.

SEC. 16. Section 4017 of the Welfare and Institutions Code is amended to read:

4017. (a) The department may provide information to the Controller to guide distribution of resources dedicated for mental health services under Chapter 6 (commencing with Section 17600) of Part 5 of Division 9, and may distribute to a county or combination of counties acting jointly resources described in Part 2 (commencing with Section 5600) of Division 5, pursuant to Section 5701.

(b) The department may contract with a county or combination of counties for services described in this division and Division 5 (commencing with Section 5000), to the extent that those services are funded directly by the department.

SEC. 17. Section 4033 of the Welfare and Institutions Code is amended to read:

4033. (a) The State Department of Mental Health shall, to the extent resources are available, comply with federal planning requirements. The department shall update and issue a state plan, which may also be any federally required state service plan, so that citizens may be informed regarding the implementation of, and long-range goals for, programs to serve mentally ill persons in the state. The department shall gather information from counties necessary to comply with this section.

(b) (1) If the State Department of Mental Health makes a decision not to comply with any federal planning requirement to which this section applies, the State Department of Mental Health shall submit the decision, for consultation, to the California Conference of Local Mental Health Directors, the California Council on Mental Health, and affected mental health entities.

(2) The State Department of Mental Health shall not implement any decision not to comply with federal planning requirements sooner than 30 days after notification of that decision, in writing, by the Department of Finance, to the chairperson of the committee in each house of the Legislature which considers appropriations, and the Chairperson of the Joint Legislative Budget Committee.

SEC. 18. Section 4050 of the Welfare and Institutions Code is amended to read:

4050. The State Department of Mental Health shall provide, to the extent resources are available, technical assistance, through its own staff, or by contract, to county mental health programs and other local mental health agencies in the areas of program operations, research, evaluation, demonstration, or quality assurance projects.

SEC. 19. Section 4071 of the Welfare and Institutions Code is amended to read:

4071. The department shall approve each local program's initial quality assurance plan, and shall thereafter review and approve each program's Short-Doyle Medi-Cal quality assurance plan whenever the plan is amended or changed.

SEC. 20. Section 4075 of the Welfare and Institutions Code is amended to read:

4075. The department shall establish and maintain an equitable system of payment for the special needs of mentally disordered persons in private residential care facilities for the mentally disabled as follows:

(a) The department shall establish the rates of payment which shall be based on the functional ability and programmatic needs of clients. The department shall establish a standardized assessment tool and client monitoring system for counties to use in determining the functional ability and programmatic needs of mentally disordered clients pursuant to this chapter.

(b) The department shall adopt regulations necessary to establish eligibility criteria for private residential care facilities, including, but not limited to, training and educational requirements for facility operators and staff and ability to meet specified special needs of clients.

(c) The department shall establish rates annually in consultation with the California Conference of Local Mental Health Directors and provider groups. These rates shall include, but not be limited to, each of the cost elements in this section as follows:

(1) Rates established for all facilities shall include an adequate amount to care for basic living needs of a mentally disordered person. "Basic living needs" are defined to include housing, including shelter, utilities, and furnishings; food; and personal care. These amounts may be adjusted annually to reflect cost-of-living changes. A redetermination of basic living costs shall be undertaken every three years by the department using the best available estimating methods.

(2) To the extent applicable, rates established for facilities shall include a reasonable amount for unallocated services. These costs shall be determined using generally accepted accounting principles. "Unallocated services," for the purposes of this section, means the indirect costs of managing a facility and includes costs of managerial personnel, facility operation, maintenance and repair, employee benefits, taxes, interest, insurance, depreciation, and general and administrative support. If a facility serves other persons in addition

to mentally disordered persons, unallocated services expenses shall be reimbursed under this section, only for the proportion of the costs associated with the care of mentally disordered persons.

(3) Rates established for facilities shall include an amount to reimburse facilities for the depreciation of mandated capital improvements and equipment as established in the state's uniform accounting manual. For purposes of this section, "mandated capital improvements and equipment" are only those remodeling and equipment costs incurred by a facility because an agency of government has required the remodeling or equipment as a condition for the use of the facility as a provider of care to mentally disordered persons.

(4) To the extent applicable, rates established for all facilities shall include as a factor an amount to reflect differences in the cost of living for different geographic areas in the state.

(5) Rates established for facilities shall include an amount for supervision where the functional ability or programmatic needs of residents require augmented supervisory staff.

(6) Rates of payment for private residential care facilities shall be established in such ways as to ensure the maximum utilization of all federal and other sources of funding, to which mentally disordered persons are legally entitled, prior to the commitment of state funds for those purposes.

(d) In no case shall the rates established under this section be less than the rates paid for equivalent categories of regional center clients which were in effect on July 1, 1985.

SEC. 21. Section 4091 of the Welfare and Institutions Code is amended to read:

4091. Nothing in Section 5671 limits the authority of the State Department of Mental Health to delegate the evaluation and enforcement of the program standards to a county mental health program when a licensed social rehabilitation facility has a contractual relationship with a county mental health program and the county has requested the delegation.

SEC. 22. Section 4094 of the Welfare and Institutions Code is amended to read:

4094. (a) The State Department of Mental Health shall establish, by regulation, program standards for any facility licensed as a community treatment facility providing mental health treatment services to seriously emotionally disturbed children, as defined in Section 5699.2, pursuant to subdivision (a) of Section 1502 of the Health and Safety Code. This section shall apply only to community treatment facilities described in this subdivision.

(b) A certification of compliance issued by the State Department of Mental Health shall be a condition of licensure for the community treatment facility by the State Department of Social Services.

(c) The State Department of Mental Health shall adopt regulations to include, but not be limited to, the following:

(1) Procedures by which the Director of Mental Health shall

certify that a facility requesting licensure as a community treatment facility pursuant to Section 1502 of the Health and Safety Code is in compliance with program standards established pursuant to this section.

(2) Procedures by which the Director of Mental Health shall deny a certification to a facility or decertify a facility licensed as a community treatment facility pursuant to Section 1502 of the Health and Safety Code, but no longer complying with program standards established pursuant to this section, in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

(3) Provisions for site visits by the State Department of Mental Health for the purpose of reviewing a facility's compliance with program standards established pursuant to this section.

(4) Provisions for the community care licensing staff of the State Department of Social Services to report to the State Department of Mental Health when there is reasonable cause to believe that a community treatment facility is not in compliance with program standards established pursuant to this section.

(5) Provisions for the State Department of Mental Health to provide consultation and documentation to the State Department of Social Services in any administrative proceeding regarding denial, suspension, or revocation of a community treatment facility license.

(d) The standards adopted by regulations pursuant to subdivision (a) shall include, but not be limited to, standards for treatment staffing and for the use of psychotropic medication, discipline, and restraint in the facilities.

(e) During the initial public comment period for the adoption of the regulations required by this section, the community care facility licensing regulations proposed by the State Department of Social Services and the program standards proposed by the State Department of Mental Health shall be presented simultaneously.

(f) The sum of forty-five thousand dollars ($45,000) is hereby appropriated annually from the General Fund to the State Department of Mental Health for one personnel year to carry out the provisions of this section.

SEC. 23. Section 4095 of the Welfare and Institutions Code is amended to read:

4095. (a) It is the intent of the Legislature that essential and culturally relevant mental health assessment, case management, and treatment services be available to court wards and dependents placed out-of-home or who are at risk of requiring out-of-home care. This can be best achieved at the community level through the active collaboration of county social service, probation, education, mental health agencies, and foster care providers.

(b) Therefore, using the Children's Mental Health Services Act (Part 4 (commencing with Section 5850) of Division 5) as a guideline, the State Department of Mental Health, in consultation with the California Conference of Local Mental Health Directors,

the State Department of Social Services, the County Welfare Directors Association, the Chief Probation Officer's Association, county alcohol and drug program administrators, and foster care providers, shall do all of the following:

(1) By July 1, 1992, develop an individualized mental health treatment needs assessment protocol for court wards and dependents.

(2) By October 1, 1993, establish and maintain a special system of per child payments for supplemental mental health services rendered to court wards and dependents pursuant to this section. This payment system shall ensure that children are served according to state-level priorities, and that similar children are served similarly statewide, to the extent of appropriations available through the annual Budget Act to implement this section. The payment system shall encourage utilization of other resources where possible, including Medi-Cal reimbursement. It is the intent of the Legislature that the payment system shall be flexible so that services may be provided in the most appropriate setting and in the most cost-effective manner.

(3) By October 1, 1993, the department shall, for the purposes of implementing this section, establish guidelines for rates, payment, and subsets of target populations to be served, for supplemental mental health services rendered to court wards and dependents. These guidelines shall include, but not be limited to, data collection, cost reporting, and types of placement resources receiving county mental health funds. These guidelines shall remain in effect until the special system of payments is established, in accordance with paragraph (2).

(4) By January 1, 1993, establish, by regulation, all of the following:

(A) Definitions of priority ranking of subsets of the court wards and dependents target population.

(B) Definitions of priority supplemental services, including, but not limited to, services defined in Title IX (commencing with Section 7030) of the California Code of Regulations as of January 1, 1992, and family therapy, prevocational services, crisis support, family support, therapeutic respite activities, and therapeutic milieu activities, to be available to the target population.

(C) A certification procedure, to be employed by the local mental health director, which assures that only mental health services approved by the local mental health director shall be eligible for reimbursement under this section.

(5) Require that interagency collaboration and program services are structured in a manner which will facilitate future implementation of the goals of the Children's Mental Health Services Act. Components shall be added to the plans and contracts which specifically address the procedures to be implemented by the county in meeting the provisions of this section. The components are to be developed in collaboration with the county social services and probation departments. Plans and contracts submitted for

department approval shall document that the procedures to be implemented in compliance with this section have been approved by the county social services department and the county probation department pursuant to an interagency agreement.

(c) (1) Only those individuals within the target population as defined in regulation and determined to be eligible for services as a result of a mental health treatment needs assessment may receive services pursuant to this section.

(2) Allocation of funds appropriated for the purposes of this section shall be based on the number of wards and dependents identified pursuant to paragraphs (3) and (4) of subdivision (b).

(3) Funds specified in subdivision (a) of Section 17601 for purposes of this section shall, in the 1991–92 fiscal year, be distributed to all counties. The counties may return them to the State Department of Mental Health. The department shall use these funds to reimburse the costs of services provided under this section by counties or the department, the costs of mental health services provided counties or the department pursuant to Section 11462, and any costs associated with the development of assessment protocols, payment systems, and other products called for in this section.

(4) The counties shall be held harmless for failure to provide assessment and treatment services to those children identified in need of services for whom there is no funding.

(d) It is the intent of the Legislature to limit supplemental mental health treatment rates for the target population of this section to rates established pursuant to paragraphs (2), (3), and (4) of subdivision (b), effective October 1, 1993, and to reduce the impact of competition for scarce treatment resources on the cost and availability of care. The State Department of Mental Health, in consultation with the State Department of Social Services and appropriate organizations, including organizations representing service providers, shall develop a plan to accomplish this intent that addresses the access to, and availability of, mental health treatment for the target population. This plan shall be submitted to the Legislature by October 1, 1993.

(e) The department shall annually report to the Legislature on the service populations provided mental health treatment services pursuant to this section, the types and costs of services provided, and the number of children identified in need of treatment services who did not receive the services.

SEC. 24. Section 4330 of the Welfare and Institutions Code is amended to read:

4330. The State Department of Mental Health shall be reimbursed for use of state hospital beds by counties pursuant to Part 1 (commencing with Section 5000) of Division 5 as follows:

(a) (1) For the 1991–92 fiscal year, the department shall receive reimbursement in accordance with subdivision (b) or Section 17601. This total may be adjusted to reflect any and all amounts previously unallocated or held in reserve for use by small counties and any

adjustments made pursuant to Chapter 1341 of the Statutes of 1990.

(2) It is the intent of the Legislature to encourage and allow greater flexibility with respect to resources during the first transitional year, and, to this end, the Director of Mental Health may implement proposals for purchase in or purchase out of, state hospital beds which were proposed in accordance with Chapter 1341 of the Statutes of 1990.

(3) Funds and bed days historically allocated to small counties shall be allocated to counties with no allocation.

(b) Commencing with the 1992–93 fiscal year and each fiscal year thereafter, the department shall be reimbursed in accordance with the contracts entered into pursuant to Section 4331.

(c) The rate of reimbursement which shall apply each fiscal year shall be determined by the department and shall include all actual costs determined by hospital and by type of service provided. Costs shall not include costs incurred for capital outlay relating to existing facilities or capacity, which shall remain the responsibility of the state. Costs for capital outlay related to future expansions or construction of new facilities requested by any county or cost related to innovative arrangements under Section 4355 shall be a cost to the county unless the expansion, construction or innovative arrangements are determined to be of statewide benefit.

(d) After final determination of state hospital costs for patients covered under Part 1 (commencing with Section 5000) of Division 5, funds that remain unencumbered at the close of the fiscal year shall be made available to counties that used fewer state hospital beds than their contracted number, proportional to the contracted amount not used, but this amount shall not exceed the value of the unused contracted amount. These funds shall be used for mental health purposes.

SEC. 25. Section 4331 of the Welfare and Institutions Code is amended to read:

4331. (a) No later than July 1, 1992, and in each subsequent year, each county acting singly or in combination with other counties shall contract with the department for the number and types of state hospital beds that the department will make available to the county or counties during the fiscal year. Each county contract shall be subject to the provisions of this chapter, as well as other applicable provisions of law, but shall not be subject to the Public Contract Code and shall not be subject to review and approval by the Department of General Services.

(b) (1) No later than January 1, 1992, each county acting singly or in combination with other counties, shall notify the department in writing as to the number and type of state hospital beds the county or counties will contract for with the state in the 1992–93 fiscal year.

(2) No later than July 1, 1992, and no later than July 1 of each subsequent year, each county acting singly or in combination with other counties shall give the department preliminary written notification of the number and types of state hospital beds that the

county or counties will contract for with the state during the subsequent fiscal year. Counties may include in their notification a request for additional beds beyond their previous year's contract.

(3) No later than January 1, 1992, and no later than January 1 of each subsequent year, each county acting singly or in combination with other counties shall give the department final written notifications of the number and types of state hospital beds that the county or counties will contract for with the state during the subsequent fiscal year.

(4) The department shall provide counties with preliminary cost and utilization information based on the best data possible, 60 days in advance of the preliminary notification deadline, and a proposed final cost estimate, based on the best data possible, 60 days in advance of the final deadline. Final rates shall be subject to contract agreement.

(c) There shall be no increase in the number of beds provided to a county or group of counties during a fiscal year unless the contract between the department and that county or group of counties is amended by mutual agreement. Any significant change in services requested by a county shall require amendment of the contract.

(d) If a county or group of counties has not contracted with the department by July 1 of any given year, the number of beds to be provided that fiscal year shall be the same as the number provided the previous fiscal year, and the rate of reimbursement that shall be paid to the department shall be at the amount set by the department for the fiscal year commencing July 1 of that year.

SEC. 26. Section 4332 of the Welfare and Institutions Code is amended to read:

4332. (a) Contracts entered into pursuant to Section 4331 shall do all of the following:

(1) Specify the number of beds to be provided.

(2) Specify the rate or rates of reimbursement.

(3) Set forth the specific type of services requested by the county, in detail.

(4) Specify procedures for admission and discharge.

(5) Include any other pertinent terms as agreed to by the department and the county.

(b) The department shall consult, in advance, with the counties regarding any changes in state hospital facilities or operations which would significantly impact access to care or quality of care, or significantly increase costs.

(c) Beginning with the 1992–93 fiscal year and annually thereafter, the department shall make available to counties upon request the basis upon which its rates have been set, including any indirect cost allocation formulas.

SEC. 27. Section 4333 of the Welfare and Institutions Code is amended to read:

4333. (a) In the event a county or counties elect to reduce their state hospital resources, beginning July 1, 1992, systemwide state

hospital net bed reduction in any one year may not exceed 10 percent of the total for patients under Part 1 (commencing with Section 5000) of Division 5 in the prior year without the specific approval of the Director of Mental Health.

(b) Net bed reductions at any one hospital may not exceed 10 percent of its contracted beds without specific approval of the Director of Mental Health.

(c) If the proposed reduction in any year exceeds the maximum permitted amount, the department, with the assistance of counties, shall make every effort to contract for beds with other purchasers.

(d) If total county requests for bed reduction in any one year or at any one facility still exceed the amount of reduction allowed, each county's share of the reduction shall be determined by taking the ratio of its contracted beds to the total contracted and multiplying this by the total beds permitted to be reduced.

(e) (1) Small counties shall be exempted from the limitations of this section and shall have the amount of their reduction determined by the Director of Mental Health.

(2) For purposes of this chapter, "small counties" means counties with a population of 125,000 or less based on the most recent available estimates of population data determined by the Population Research Unit of the Department of Finance.

(f) It is the intent of the Legislature that counties have maximum flexibility in planning the use of these resources, which includes making full use of existing facilities and that the Director of Mental Health enforce his or her exemption authority in a manner consistent with this intent. Because freed-up beds may be purchased by other counties or may be used for other purposes, it is anticipated that individual county flexibility will be substantially greater than the 10-percent figure described in subdivisions (a) and (b).

(g) Counties may annually contract for state hospital beds as single entities or in combination with other counties. For purposes of this section, small counties, as defined in subdivision (e):

(1) Are encouraged to establish regional authorities to pool their resources to assure their ability to provide the necessary array of services to their mentally ill populations not otherwise available to them on an individual basis.

(2) May receive loans from the General Fund when emergency state hospital beds are needed, not to exceed one year in duration, with interest payable at the same rate as that earned through the Pooled Money Investment Fund. Any interest due may be waived based upon a finding of emergency by the Secretary of Health and Welfare and the Director of Finance.

(h) The department, in consultation with the California Conference of Local Mental Health Directors, affected employee organizations, and other consumer and family organizations, shall make available to the Legislature on an annual basis, beginning May 1, 1992, information assessing the impact of limitations on bed reductions on county flexibility, and the quality of care, efficiency,

and effectiveness of state hospital operations.

SEC. 28. Section 4341 of the Welfare and Institutions Code is amended to read:

4341. (a) In order to ensure the availability of an adequate number of persons from all disciplines necessary to implement appropriate and effective services to severely mentally ill persons of all ages and ethnic groups, the department shall, to the extent resources are available, implement a Human Resources Development Program.

(b) Implementation of the program shall include negotiation with any or all of the following: the University of California, state colleges, community colleges, private universities and colleges, public and private hospitals, and public and private rehabilitation, community care, treatment providers, and professional associations, to arrange affiliations and contracts for educational and training programs to ensure appropriate numbers of graduates with experience in serving severely mentally ill persons in the most cost-effective programs.

(c) The human resources development effort shall be undertaken with active participation of the California Conference of Local Mental Health Directors, client and family representatives, and professional and academic institutions.

(d) The program shall give particular attention to areas of specific expertise where local programs and state hospitals have difficulty recruiting qualified staff, including programs for forensic persistently severely mentally ill children and youth, and severely mentally ill elderly persons. Specific attention shall be given to ensuring the development of a mental health work force with the necessary bilingual and bicultural skills to deliver effective service to the diverse population of the state.

SEC. 29. Section 4342 of the Welfare and Institutions Code is amended to read:

4342. The five-year youth suicide prevention program established by the department shall develop all of the following:

(a) Research and data collection on youth suicide.

(b) Public education material production and distribution in conjunction with other public agencies and the private sector throughout the state.

(c) Training programs involving students, parents, teachers, school administrators, mental health professionals, local social service agencies, juvenile justice representatives, and others concerned with the problem of youth suicide.

(d) A final evaluation and report to the Governor and Legislature no later than July 1, 1993. It is the intent of the Legislature to expand the youth suicide prevention program to include research and data collection, public education material production and distribution, and training programs to address the needs of California's adult population in need of suicide interventions.

(e) This section shall remain in effect only until January 1, 1994, and as of that date is repealed, unless a later enacted statute, which

is enacted before January 1, 1994, deletes or extends that date.

SEC. 30. Section 4353 of the Welfare and Institutions Code is amended to read:

4353. The Legislature finds and declares all of the following:

(a) There is a large population of persons who have suffered traumatic head injuries resulting in significant functional impairment.

(b) Approximately 80 percent of these injuries have occurred as a direct result of motor vehicle accidents.

(c) There is a lack of awareness of the problems associated with head injury resulting in a significant lack of services for persons with head injuries, including, but not limited to, in-home and out-of-home services, respite care, placement programs, counseling, cognitive rehabilitation, transitional living, and vocational rehabilitation services.

(d) Although there are currently a number of different programs attempting to meet the needs of the persons with head injuries, there is no clearly defined ultimate responsibility vested in any single state agency. Nothing in this section shall be construed to mandate services for persons with acquired traumatic injury through county and city programs.

(e) There is no programmatic coordination among agencies to facilitate the provision of a continuing range of services appropriate for persons with traumatic head injuries.

(f) There is a serious gap in postacute care services resulting in incomplete recovery of functional potential.

(g) Due to the problems referred to in this section, the state is not adequately meeting the needs of persons with head injuries enabling them to return to work and to lead productive lives.

SEC. 31. Section 4356 of the Welfare and Institutions Code is amended to read:

4356. (a) The department shall award and administer a maximum of four three-year demonstration projects. Priority shall be given to applicants which have proven experience in providing services to persons with an acquired traumatic brain injury or providing supported employment services to persons with special needs. There shall be at least one demonstration project located in the north half of the state and one in the south half of the state. The department shall award project grants no later than six months after funds for this purpose have been appropriated, using a competitive bidding process. No application shall be considered by the department unless the applicant sets forth in the application the means by which data will be collected for purposes of evaluation pursuant to subdivision (b). All projects shall be operational within two months following the grant award.

(b) The department shall also develop an evaluation and data collection system prior to the initial operative date of the project pursuant to subdivision (a), to assess the effectiveness of these coordinated service models. The department shall report to the

Legislature on the progress of the demonstration projects by November 30 of each year in which the projects are operational.

The evaluation shall assess the effectiveness of the pilot projects by doing all of the following:

(1) Comparing the number of persons who achieved supported employment placement, as described in subdivision (d) of Section 5564.1, with the number who would have achieved placement without the assistance of a pilot project. The program shall have as a goal an increase of 30 percent in numbers of persons employed as a result of the program.

(2) Comparing the number of persons who achieved employment compared with the number who would have achieved employment without the assistance of a pilot project. The program shall have as a goal an increase of 30 percent in numbers of persons employed as a result of the program.

(3) Conducting any other evaluative investigation which interested parties, as described in subdivision (c), determine to be appropriate. The program shall have as a goal an increase of 30 percent in the numbers of persons with significant improvement as measured by standard and objective functional assessment independence measures.

(4) The comparisons shall be analyzed to determine if provision of services had a statistically significant impact on rates of employment or supported employment, or on any other objective which interested parties, as described in subdivision (c), direct the department to measure.

(c) The department shall consult with interested parties to assist with the implementation of this chapter, and specifically with the development of criteria for selection of the projects and development of an evaluation and data collection system. Interested parties shall include, but not be limited to, all of the following:

(1) The California Association of Rehabilitation Facilities.

(2) The California Association for Adult Day Services.

(3) The Southern California Head Injury Foundation.

(4) The Northern California Head Injury Association.

(5) The Coalition of Independent Living Centers.

(d) The term "supported employment placement" as used in paragraph (1) of subdivision (b) means an alternative method of providing services which may include prevocational and educational services to individuals who may not qualify for vocational rehabilitation. The following four characteristics distinguish supported employment from both vocational rehabilitation services and traditional methods of providing day activity services:

(1) Service recipients appear to lack the potential for unassisted competitive employment.

(2) Ongoing training, supervision, and support services must be provided.

(3) The opportunity is designed to provide the same benefits that other persons receive from work, including an adequate income

level, quality of working life, security, and mobility.

(4) There is flexibility in the provision of support which is necessary to enable the person to function effectively at the worksite.

SEC. 32. Section 4360 of the Welfare and Institutions Code is amended to read:

4360. (a) The department shall provide mental health treatment and supervision in the community for judicially committed persons. The program established and administered by the department under this chapter to provide these services shall be known as the Forensic Conditional Release Program and may be used by the department in accordance with this section to provide services in the community to other patient populations for which the department has direct responsibility.

(b) The department may provide directly, or through contract with private providers or counties, for these services, including administrative and ancillary services related to the provision of direct services. These contracts shall be exempt from the requirements contained in the Public Contract Code and the State Administrative Manual, and from approval by the Department of General Services. Subject to approval by the department, a county or private provider under contract to the department to provide these services may subcontract with private providers for those services.

SEC. 33. Section 5402 of the Welfare and Institutions Code is amended to read:

5402. (a) The State Department of Mental Health shall collect and publish annually quantitative information concerning the operation of this division including the number of persons admitted for 72-hour evaluation and treatment, 14-day and 30-day periods of intensive treatment, and 180-day postcertification intensive treatment, the number of persons transferred to mental health facilities pursuant to Section 4011.6 of the Penal Code, the number of persons for whom temporary conservatorships are established, and the number of persons for whom conservatorships are established in each county.

(b) Each local mental health director, and each facility providing services to persons pursuant to this division, shall provide the department, upon its request, with any information, records, and reports which the department deems necessary for the purposes of this section. The department shall not have access to any patient name identifiers.

(c) Information published pursuant to this section shall not contain patient name identifiers and shall contain statistical data only.

(d) The department shall make the reports available to medical, legal, and other professional groups involved in the implementation of this division.

SEC. 34. Section 5403 of the Welfare and Institutions Code is amended to read:

5403. (a) From July 1, 1991 to June 30, 1993, inclusive, regulations promulgated by the department shall not be subject to the approval of the California Conference of Local Mental Health Directors. The impact of this subdivision on regulatory timing shall be included in the department's report to the Legislature on September 30, 1992.

(b) The department shall continue to involve the conference in the development of all regulations which affect local mental health programs prior to the promulgation of those regulations pursuant to the Administrative Procedure Act.

SEC. 35. Section 5600.1 of the Welfare and Institutions Code is amended to read:

5600.1. The mission of California's mental health system shall be to enable persons experiencing severe and disabling mental illnesses and children with serious emotional disturbances to access services and programs that assist them, in a manner tailored to each individual, to better control their illness, to achieve their personal goals, and to develop skills and supports leading to their living the most constructive and satisfying lives possible in the least restrictive available settings.

SEC. 36. Section 5600.2 of the Welfare and Institutions Code, as added by Chapter 89 of the Statutes of 1991, is amended to read:

5600.2. To the extent resources are available, public mental health services in this state should be provided to priority target populations in systems of care that are client-centered, culturally competent, and fully accountable, and which include the following factors:

(a) Client-Centered Approach. All services and programs designed for persons with mental disabilities should be client centered, in recognition of varying individual goals, diverse needs, concerns, strengths, motivations, and disabilities. Persons with mental disabilities:

(1) Retain all the rights, privileges, opportunities, and responsibilities of other citizens unless specifically limited by federal or state law or regulations.

(2) Are the central and deciding figure, except where specifically limited by law, in all planning for treatment and rehabilitation based on their individual needs. Planning should also include family members and friends as a source of information and support.

(3) Shall be viewed as total persons and members of families and communities. Mental health services should assist clients in returning to the most constructive and satisfying lifestyles of their own definition and choice.

(4) Should receive treatment and rehabilitation in the most appropriate and least restrictive environment, preferably in their own communities.

(5) Should have an identifiable person or team responsible for their support and treatment.

(6) Shall have available a mental health advocate to ensure their rights as mental health consumers pursuant to Section 5521.

(b) Priority Target Populations. Persons with serious mental illnesses have severe, disabling conditions that require treatment, giving them a high priority for receiving available services.

(c) Systems of Care. The mental health system should develop coordinated, integrated, and effective services organized in systems of care to meet the unique needs of children and youth with serious emotional disturbances, and adults, older adults, and special populations with serious mental illnesses. These systems of care should operate in conjunction with an interagency network of other services necessary for individual clients.

(d) Outreach. Mental health services should be accessible to all consumers on a 24-hour basis in times of crisis. Assertive outreach should make mental health services available to homeless and hard-to-reach individuals with mental disabilities.

(e) Multiple Disabilities. Mental health services should address the special needs of children and youth, adults, and older adults with dual and multiple disabilities.

(f) Quality of Service. Qualified individuals trained in the client-centered approach should provide effective services based on measurable outcomes and deliver those services in environments conducive to clients' well-being.

(g) Cultural Competence. All services and programs at all levels should have the capacity to provide services sensitive to the target populations' cultural diversity. Systems of care should:

(1) Acknowledge and incorporate the importance of culture, the assessment of cross-cultural relations, vigilance towards dynamics resulting from cultural differences, the expansion of cultural knowledge, and the adaptation of services to meet culturally unique needs.

(2) Recognize that culture implies an integrated pattern of human behavior, including language, thoughts, beliefs, communications, actions, customs, values, and other institutions of racial, ethnic, religious, or social groups.

(3) Promote congruent behaviors, attitudes, and policies enabling the system, agencies, and mental health professionals to function effectively in cross-cultural institutions and communities.

(h) Community Support. Systems of care should incorporate the concept of community support for individuals with mental disabilities and reduce the need for more intensive treatment services through measurable client outcomes.

(i) Self-Help. The mental health system should promote the development and use of self-help groups by individuals with serious mental illnesses so that these groups will be available in all areas of the state.

(j) Outcome Measures. State and local mental health systems of care should be developed based on client-centered goals and evaluated by measurable client outcomes.

(k) Administration. Both state and local departments of mental health should manage programs in an efficient, timely, and

cost-effective manner.

(*l*) Research. The mental health system should encourage basic research into the nature and causes of mental illnesses and cooperate with research centers in efforts leading to improved treatment methods, service delivery, and quality of life for mental health clients.

(m) Education on Mental Illness. Consumer and family advocates for mental health should be encouraged and assisted in conforming the public about the nature of mental illness from their viewpoint and about the needs of consumers and families. Mental health professional organizations should be encouraged to disseminate the most recent research findings in the treatment and prevention of mental illness.

SEC. 37. Section 5600.2 of the Welfare and Institutions Code, as amended by Chapter 962 of the Statutes of 1990, is amended and renumbered to read:

5751.2. (a) Except as provided in this section, persons employed or under contract to provide mental health services pursuant to this part shall be subject to all applicable requirements of law respecting professional licensure, and no person shall be employed in local mental health programs pursuant to this part to provide services for which such a license is required, unless the person possesses a currently valid license.

(b) Persons employed as psychologists and clinical social workers, while continuing in their employment in the same class as of January 1, 1979, in the same program or facility, including those persons on authorized leave, but not including intermittent personnel, shall be exempt from the requirements of subdivision (a). Additionally, the requirements of subdivision (a) may be waived by the department solely for persons in the professions of psychology, clinical social work, or marriage, family and child counseling who are gaining qualifying experience for licensure in the profession in this state.

(c) (1) A waiver granted pursuant to subdivision (b) shall not exceed three years from commencement of employment in this state in the case of marriage, family, and child counselors, at which time licensure shall have been obtained or the employment shall be terminated. For persons employed as marriage, family, and child counselors less than full time, an extension of a waiver of licensure may be granted for additional years proportional to the extent of part-time employment, as long as the person is employed without interruption in service, but in no case shall the waiver of licensure exceed five years.

(2) A waiver granted pursuant to subdivision (b) shall not exceed four years from commencement of employment in this state in the case of full-time clinical social workers, at which time licensure shall have been obtained or the employment shall be terminated. However, the department may grant an extension of a waiver of licensure for one additional year, based on extenuating circumstances as determined by the department pursuant to

subdivision (f). For persons employed as clinical social workers less than full time, an extension of a waiver of licensure may be granted for additional years proportional to the extent of part-time employment, as long as the person is employed without interruption in service, but in no case shall the waiver of licensure exceed six years.

(d) A waiver granted pursuant to subdivision (b) shall not exceed two years from commencement of employment in this state in the case of psychologists, at which time licensure shall have been obtained or the employment shall be terminated. For persons employed full time as a psychologist, the department may grant an extension of a waiver of licensure for an additional year, based upon extenuating circumstances as determined by the department. For persons employed less than full time as a psychologist, the department may grant an extension of a waiver of licensure for additional years proportional to the extent of part-time employment, based upon extenuating circumstances as determined by the department as long as the person is employed without interruption in service, but in no case shall the waiver of licensure exceed five years.

(e) However, the durational limitations upon waivers shall not apply to active candidates for a doctoral degree in social work, social welfare, or social science, who are enrolled at an accredited university, college, or professional school, but these limitations shall apply following completion of this training. Additionally, this durational limitation upon waivers shall not apply to active candidates for a doctoral degree in marriage, family and child counseling or marital and family therapy who are enrolled at a school, college, or university, specified in subdivision (a) of Section 4980.40 of the Business and Professions Code, but the limitations shall apply following completion of the training. A waiver pursuant to this section shall be granted only to the extent necessary to qualify for licensure, except that personnel recruited for employment from outside this state and whose experience is sufficient to gain admission to a licensing examination shall, nevertheless, have two years from the date of their employment in California to become licensed, at which time licensure shall have been obtained or the employment shall be terminated. The department may grant an extension of a waiver of licensure for personnel recruited from outside this state for one additional year, based upon extenuating circumstances as determined by the department pursuant to subdivision (f).

(f) The department shall grant a request for an extension of a waiver based on extenuating circumstances, pursuant to subdivision (c) or (e), if any of the following circumstances exist:

(1) The person requesting the extension has experienced a recent catastrophic event which may impair the person's ability to qualify for and pass the license examination. Those events may include, but are not limited to, significant hardship caused by a natural disaster, serious and prolonged illness of the person, serious and prolonged

illness or death of a child, spouse, or parent, or other stressful circumstances.

(2) The person requesting the extension has difficulty speaking or writing the English language, or other cultural and ethnic factors exist which substantially impair the person's ability to qualify for and pass the license examination.

(3) The person requesting the extension has experienced other personal hardship which the department, in its discretion, determines to warrant the extension.

SEC. 38. Section 5600.3 of the Welfare and Institutions Code is amended to read:

5600.3. To the extent resources are available, the primary goal of use of funds deposited in the mental health account of the local health and welfare trust fund should be to serve the target populations identified in the following categories, which shall not be construed as establishing an order of priority:

(a) (1) Seriously emotionally disturbed children or adolescents.

(2) For the purposes of this part, "seriously emotionally disturbed children or adolescents" means minors under the age of 18 years who have a mental disorder as identified in the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders, other than a primary substance use disorder or developmental disorder, which results in behavior inappropriate to the child's age according to expected developmental norms. Members of this target population shall meet one or more of the following criteria:

(A) As a result of the mental disorder the child has substantial impairment in at least two of the following areas: self-care, school functioning, family relationships, or ability to function in the community; and either of the following occur:

(i) The child is at risk of removal from home or has already been removed from the home.

(ii) The mental disorder and impairments have been present for more than six months or are likely to continue for more than one year without treatment.

(B) The child displays one of the following: psychotic features, risk of suicide or risk of violence due to a mental disorder.

(C) The child meets special education eligibility requirements under Chapter 26.5 (commencing with Section 7570) of Division 7 of Title 1 of the Government Code.

(b) (1) Adults and older adults who have a serious mental disorder.

(2) For the purposes of this part "serious mental disorder" means a mental disorder which is severe in degree and persistent in duration, which may cause behavioral functioning which interferes substantially with the primary activities of daily living, and which may result in an inability to maintain stable adjustment and independent functioning without treatment, support, and rehabilitation for a long or indefinite period of time. Serious mental disorders include, but are not limited to, schizophrenia, as well as

major affective disorders or other severely disabling mental disorders. This section shall not be construed to exclude persons with a serious mental disorder and a secondary diagnosis of substance abuse, developmental disability, or other physical or mental disorder.

(3) Members of this target population shall meet all of the following criteria:

(A) The person has a mental disorder as identified in the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders, other than a primary substance use disorder or developmental disorder or acquired traumatic brain injury pursuant to subdivision (a) of Section 4354 unless that person also has a serious mental disorder as defined in paragraph (2).

(B) (i) As a result of the mental disorder the person has substantial functional impairments or symptoms, or a psychiatric history demonstrating that without treatment there is an imminent risk of decompensation to having substantial impairments or symptoms.

(ii) For the purposes of this part, "functional impairment" means being substantially impaired as the result of a mental disorder in independent living, social relationships, vocational skills, or physical condition.

(C) As a result of a mental functional impairment and circumstances the person is likely to be eligible for public assistance, services, or entitlements or is otherwise legally a public responsibility.

(4) For the purpose of organizing outreach and treatment options, to the extent resources are available, this target population includes, but is not limited to, persons who are any of the following:

(A) Homeless persons who are mentally ill.

(B) Persons evaluated by appropriately licensed persons as requiring care in acute treatment facilities including state hospitals, acute inpatient facilities, institutes for mental disease, and crisis residential programs.

(C) Persons arrested or convicted of crimes.

(D) Persons who require acute treatment as a result of a first episode of mental illness with psychotic features.

(c) Adults or older adults who require or are at risk of requiring acute psychiatric inpatient care, residential treatment, or outpatient crisis intervention because of a mental disorder with symptoms of psychosis, suicidality, or violence.

(d) Persons who need brief treatment as a result of a natural disaster or severe local emergency.

SEC. 39. Section 5600.4 of the Welfare and Institutions Code is amended to read:

5600.4. Community mental health services should be organized to provide an array of treatment options in the following areas, to the extent resources are available:

(a) Precrisis and Crisis Services. Immediate response to individuals in precrisis and crisis and to members of the individual's

support system, on a 24-hour, seven-day-a-week basis. Crisis services may be provided offsite through mobile services. The focus of precrisis services is to offer ideas and strategies to improve the person's situation, and help access what is needed to avoid crisis. The focus of crisis services is stabilization and crisis resolution, assessment of precipitating and attending factors, and recommendations for meeting identified needs. Case management may be provided offsite through mobile services.

(b) Comprehensive Evaluation and Assessment. Includes evaluation and assessment of physical and mental health, income support, housing, vocational training and employment, and social support services needs. Evaluation and assessment may be provided offsite through mobile services.

(c) Individual Service Plan. Identification of the short- and long-term service needs of the individual, advocating for, and coordinating the provision of these services. The development of the plan should include the participation of the client, family members, friends, and providers of services to the client, as appropriate.

(d) Medication Education and Management. Includes, but is not limited to, evaluation of the need for administration of, and education about, the risks and benefits associated with medication. Clients should be provided this information prior to the administration of medications pursuant to state law. To the extent practicable, families and caregivers should also be informed about medications.

(e) Case Management. Client-specific services that assist clients in gaining access to needed medical, social, educational, and other services. Case management may be provided offsite through mobile services.

(f) Twenty-four Hour Treatment Services. Treatment provided in any of the following: an acute psychiatric hospital, an acute psychiatric unit of a general hospital, a psychiatric health facility, an institute for mental disease, or community residential treatment programs, including crisis, transitional and long-term programs.

(g) Rehabilitation and Support Services. Treatment and rehabilitation services designed to stabilize symptoms, and to develop, improve, and maintain the skills and supports necessary to live in the community. These services may be provided through various modes of services, including, but not limited to, individual and group counseling, day treatment programs, collateral contacts with friends and family, and peer counseling programs. These services may be provided offsite through mobile services.

(h) Vocational Rehabilitation. Services which provide a range of vocational services to assist individuals to prepare for, obtain, and maintain employment.

(i) Residential Services. Room and board and 24-hour care and supervision.

(j) Services for Homeless Persons. Services designed to assist mentally ill persons who are homeless, or at risk of being homeless,

to secure housing and financial resources.

(k) Group Services. Services to two or more clients at the same time.

SEC. 40. Section 5600.5 of the Welfare and Institutions Code is amended to read:

5600.5. The minimum array of services for children and youth meeting the target population criteria established in subdivision (a) of Section 5600.3 should include the following modes of service in every geographical area, to the extent resources are available:

(a) Precrisis and crisis services.

(b) Assessment.

(c) Medication education and management.

(d) Case management.

(e) Twenty-four-hour treatment services.

(f) Rehabilitation and support services.

SEC. 41. Section 5600.7 of the Welfare and Institutions Code is amended to read:

5600.7. The minimum array of services for older adults meeting the target population criteria established in subdivision (b) of Section 5600.3 should include the following modes of service in every geographical area, to the extent resources are available:

(a) Precrisis and crisis services, including mobile services.

(b) Assessment, including mobile services.

(c) Medication education and management.

(d) Case management, including mobile services.

(e) Twenty-four-hour treatment services.

(f) Residential services.

(g) Rehabilitation and support services, including mobile services.

SEC. 42. Section 5600.9 of the Welfare and Institutions Code is amended to read:

5600.9. (a) Services to the target populations described in Section 5600.3 should be planned and delivered to the extent practicable so that persons in all ethnic groups are served with programs that meet their cultural needs.

(b) Services in rural areas should be developed in flexible ways, and may be designed to meet the needs of the indigent and uninsured who are in need of public mental health services because other private services are not available.

(c) To the extent permitted by law, counties should maximize all available funds for the provision of services to the target populations. Counties are expressly encouraged to develop interagency programs and to blend services and funds for individuals with multiple problems, such as those with mental illness and substance abuse, and children, who are served by multiple agencies. State departments are directed to assist counties in the development of mechanisms to blend funds and to seek any necessary waivers which may be appropriate.

SEC. 43. Section 5604.2 of the Welfare and Institutions Code is

amended to read:

5604.2. (a) The local mental health advisory board shall do all of the following:

(1) Review and evaluate the community's mental health needs, services, facilities, and special problems.

(2) Review any county agreements entered into pursuant to Section 5650.

(3) Advise the governing body and the local mental health director as to any aspect of the local mental health program.

(4) Review and approve the procedures used to ensure citizen and professional involvement at all stages of the planning process.

(5) Submit an annual report to the governing body.

(6) Make recommendations regarding the appointment of a local director of mental health services.

(b) (1) It is the intent of the Legislature that, as part of its duties pursuant to subdivision (a), the board shall assess the impact of the realignment of services from the state to the county, on services delivered to clients and on the local community. The Organization of Mental Health Advisory Boards shall also assess its appropriate role as well as that of the local mental health advisory boards. Pursuant to subdivision (b) of Section 5764, the California Council on Mental Health shall consult with the Organization of Mental Health Advisory Boards regarding data needed to perform these assessments. No later than March 15, 1992, the Organization of Mental Health Advisory Boards shall report to the California Council on Mental Health on all these issues.

(c) This section shall become inoperative on July 1, 1993, and, as of January 1, 1994, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1994, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 44. Section 5610 of the Welfare and Institutions Code is amended to read:

5610. (a) Each county mental health system shall comply with reporting requirements developed by the State Department of Mental Health which shall be uniform and simplified. The department shall review existing data requirements to eliminate unnecessary requirements and consolidate requirements which are necessary. These requirements shall provide comparability between counties in reports.

(b) The department shall develop, in consultation with the Performance Outcome Committee pursuant to Section 5611, and with the Health and Welfare Agency, uniform definitions and formats for a statewide, nonduplicative client-based information system that includes all information necessary to meet federal mental health grant requirements and state and federal medicaid reporting requirements, as well as any other state requirements established by law, or agreed upon by the department and the California Conference of Local Mental Health Directors. The data system, including performance outcome measures reported

pursuant to Section 5613, shall be developed by July 1, 1992.

(c) Unless determined necessary by the department to comply with federal law and regulations, the data system developed pursuant to subdivision (b) shall not be more costly than that in place during the 1990–91 fiscal year.

(d) The department shall develop unique patient identifiers that permit development of client-specific cost and outcome measures while protecting confidentiality. The department shall not have access to any patient name identifiers.

SEC. 45. Section 5651 of the Welfare and Institutions Code is amended to read:

5651. The proposed annual county mental health services performance contract shall include all of the following:

(a) The following assurances:

(1) That the county is in compliance with the expenditure requirements of Section 17608.05.

(2) That the county shall provide the mental health services required by Chapter 26.5 (commencing with Section 7570) of Division 7 of Title 1 of the Government Code and will comply with all requirements of that chapter.

(3) That the county shall provide services to persons receiving involuntary treatment as required by Part 1 (commencing with Section 5000) and Part 1.5 (commencing with Section 5585).

(4) That the county shall comply with all requirements necessary for Medi-Cal reimbursement for mental health treatment services and case management programs provided to Medi-Cal eligible individuals, including, but not limited to, the provisions set forth in Chapter 3 (commencing with Section 5700), and that the county shall submit cost reports and other data to the department in the form and manner determined by the department.

(5) That the local mental health advisory board has reviewed and approved procedures ensuring citizen and professional involvement at all stages of the planning process pursuant to Section 5604.2.

(6) That the county shall comply with all provisions and requirements in law pertaining to patient rights.

(7) That the county shall comply with all requirements in federal law and regulation pertaining to federally funded mental health programs.

(8) That the county shall provide all data and information set forth in Sections 5610 and 5664.

(9) That the county, if it elects to provide the services described in Chapter 2.5 (commencing with Section 5670), shall comply with guidelines established for program initiatives outlined in that chapter.

(10) Assurances that the county shall comply with all applicable laws and regulations for all services delivered.

(b) The county's proposed agreement with the department for state hospital usage as required by Chapter 4 (commencing with Section 4330) of Part 2 of Division 4.

(c) Performance contracts required by this chapter shall include any contractual requirements needed for any program initiatives utilized by the county contained within this part. In addition, any county may choose to include contract provisions for other state directed mental health managed programs within this performance contract.

(d) Other information determined to be necessary by the director, to the extent this requirement does not substantially increase county costs.

SEC. 46. Section 5651.2 of the Welfare and Institutions Code is amended to read:

5651.2. For the 1991–92 fiscal year, each county shall, no later than October 1, 1991, submit to the department a simplified performance contract. The performance contract shall contain information that the department determines necessary for the provision and funding of mental health services provided for in law. The performance contract shall include, but not be limited to, assurances necessary to ensure compliance with federal law. In addition, the performance contract may include provisions governing reimbursement to the state for costs associated with state hospitals and institutions for mental disease.

SEC. 47. Section 5672 of the Welfare and Institutions Code is amended to read:

5672. The types of programs serving children and adolescents referred to in Section 5671.5 are those described in this section. The programs should meet the criteria set forth in this section and in Sections 5671 and 5671.5. Nothing in this section should be construed to waive any licensure requirement pursuant to the California Community Care Facilities Act (Chapter 3 (commencing with Section 1500) of Division 2 of the Health and Safety Code) for any community care facility.

(a) A program for a short-term crisis residential alternative to hospitalization. The services in this program should include, but not be limited to, provision of direct services to the family, specific linkages with the child's educational system and community educational resources, and development of a support system, including school and treatment referrals. The program should be designed for children and adolescents who would otherwise be referred to a psychiatric inpatient unit. It should be a 24-hour program, with an emphasis on stabilization and appropriate referral for further treatment or support services.

(b) A long-term residential treatment program. This program should have an educational orientation and should reflect the principle that education be available in the least restrictive environment. The program should serve children and adolescents requiring an intensive support system for a period of six to 18 months, who would otherwise be at risk of periodic hospitalization. The program should provide coordinated intervention with the child, family unit, and community education resources, and should include

aftercare services to the child and family unit to solidify gains and develop skills in linking with community services.

(c) A transitional residential program. This program may include group homes, foster homes, or homes adapted for preparing adolescents approaching majority to adjust to emancipation.

The services in this program should include, but not be limited to, coordination with community education resources to meet the child's individual need, family services designed to strengthen the family unity of which the child is a part, and aftercare services to reinforce the gains brought about by the program and assist in community adjustment.

(d) A program for a semisupervised, independent but structured living arrangement. This program should apply to older adolescents, who are either emancipated or who would not be returning home from out-of-home placement. The semisupervised living arrangement should require structured living designed to impart those skills necessary for successful independent living as described in subdivision (d) of Section 5671. Adult supervision should be available 24 hours per day.

The services should include, but not be limited to, prevocational and vocational linkages in the community, financial planning which may include rent subsidy assistance, and development of a social support system.

(e) (1) A day treatment program. This program should provide services to children and adolescents who are residing in their own homes or in out-of-home placements. Schoolsites or other noninstitutional settings are preferred for this program. A day treatment program for children should offer a multidisciplinary approach and should incorporate education, recreation, and rehabilitation activities. Services provided should be age appropriate and age specific intensive remedial programs, including education, counseling, socialization, and recreational services. To the extent feasible, the client's family should be included in these activities.

(2) Day treatment services should be designed to provide an alternative to residential placement, to provide preventive services in the early stages of family breakdown, and to reduce the need for more costly and lengthy treatment services. Aftercare services should be available to maintain gains and prevent family regression.

(f) A socialization center program. This program should provide a multidisciplinary approach and seek funding from a variety of agencies responsible for providing services, including, but not limited to, school districts and recreation departments. The services should promote community acceptance of clients and the integration of their family units. Family involvement in planning activities and developing support system linkages should be encouraged.

(g) An in-home treatment program. This program should be designed to strengthen the child's ties with the family unit and with the greater community without removing the child from his or her home environment and community educational system.

Services provided should include, but not be limited to, crisis intervention, direct family services, development of specific treatment plans, development of ongoing plans utilizing available resources in the community educational system, and special programs which act as a support system for the child and family unit.

(h) Augmentation of crisis intervention program. This program should provide specifically for evaluation, diagnosis, and disposition planning for children and adolescents in psychiatric crisis.

(i) Case management services program. This program should emphasize prevention services and should be designed to divert to noninstitutional programs children and adolescents at risk of involvement with traditional mental health institutions.

SEC. 48. Article 2 (commencing with Section 5681) of Chapter 2.5 of Part 2 of Division 5 of the Welfare and Institutions Code is repealed.

SEC. 49. Article 2 (commencing with Section 5680) is added to Chapter 2.5 of Part 2 of Division 5 of the Welfare and Institutions Code, to read:

Article 2. Community Support System for Homeless Mentally Disabled Persons

5680. In order to assist homeless mentally disabled persons to secure, stabilize, and maintain safe and adequate living arrangements in the community, the Legislature hereby establishes the Community Support System for Homeless Mentally Disabled.

5681. (a) It is the intent of the Legislature that when funds are made available, counties should assure the delivery of long-range services and community support assistance to homeless mentally disabled persons and those at risk of becoming homeless.

(b) It is further the intent of the Legislature that specific outreach and service priority be given under this chapter to homeless mentally disabled persons not served by any local or state programs as of September 30, 1985.

5682. The goal of the community support system is to assure that needed community services are provided to homeless mentally disabled persons and those at risk of becoming homeless to stabilize, maintain, and enhance their living in the community. All services of the community support system are offered to these persons on a voluntary basis. The active participation of the clients being provided services is encouraged at all times. Programs are designed to be accessible to the clients intended to be served. No individual service offered should be contingent upon the acceptance of any other community support service or mental health treatment.

5683. The function of the community support system is to conduct active outreach to homeless mentally disabled persons, to secure and maintain income, housing, food, and clothing for clients, and to develop social skills and prevocational and vocational skills on a voluntary basis. Each community support system is based upon the

range of services as may be necessary to meet a client's needs:

(a) Personal assistance to secure and maintain housing, food, clothing, income, and health benefits.

(b) Accessing social and vocational skill development activities when they are available, case management, and crisis intervention, with a focus on finding alternatives to acute inpatient hospital care, services when they are needed.

5683.5. Community support systems may provide temporary funds to their homeless clients for their personal incidental living needs while the clients are in residential placement. Up to seventy-five dollars ($75) may be made available monthly to each client for this purpose. Local mental health programs shall, to the extent possible, recoup payments from clients after they become eligible for a governmental assistance program, including, but not limited to, general relief or SSI/SSP funds or otherwise become financially able to repay the county community support system.

5685. Counties may provide specific services, contract with a public or private agency, or a combination of both. Nothing contained in this article shall prevent a county from developing a consortium model which involves a number of providers performing specific functions. If a county decides to contract out a portion or all of the community support program functions, priority shall be given to providers, public or private, that have demonstrated an ability and desire to the county to work with the population intended to be served and which possess the management skills needed to perform the functions they propose to perform.

5685.5. (a) A county may contract with the local office of the public guardian to receive and manage income and benefits for mentally ill persons, regardless of whether the persons are under conservatorship. The case management services described in this section shall be provided only with the consent of the client. The public guardian, under the contracts, may perform functions intended to meet the goals of the community support system listed in Section 5683, and may also include, but not be limited to, all of the following case management services:

(1) Outreach and casefinding to locate mentally ill persons in need of services.

(2) Establishing liaison with charitable organizations which serve mentally ill persons.

(3) Assistance in applying for and obtaining public assistance benefits for which they are eligible.

(b) Any office of the public guardian contracting with the county to provide these management services shall maintain a record of those individuals being assisted, including information about whether the individual is under conservatorship, the type of service assistance provided by the office of the public guardian, and any agencies with which the office of the public guardian is coordinating efforts.

5686. Whenever a county believes that a mentally disabled

person may be unable to manage his or her SSI/SSP funds, the county mental health program shall advise the person that he or she may have a trusted family member, relative or friend designated as their representative payee under the SSI/SSP program.

5686.5. In order to make the most efficient use of the public funds appropriated for this purpose, counties are encouraged to maximize the use of existing public and private community resources. If voluntarily requested by the client, the community support agency shall help the client learn to manage his or her own money. Any SSI/SSP money, or other personal funds, if managed by the program or by the local office of the public guardian, shall, at all times, be considered as the client's money. Nothing in this section, however, shall prevent a client from purchasing residential care with SSI/SSP funds.

5688.6. Any and all funds appropriated for the homeless mentally disabled which have been determined to be unexpended and unencumbered two years after the date the funds were appropriated shall be transferred to the Department of Housing and Community Development. The amount of transfer shall be determined after the State Department of Mental Health settles county cost reports for the fiscal year the funds were appropriated. The funds transferred to the Department of Housing and Community Development shall be administered in accordance with that department's Special Users Housing Rehabilitation or Emergency Shelter programs to provide low-income transitional and long-term housing for homeless mentally disabled persons. Special priority shall be given to project proposals for homeless mentally disabled persons in the same county from which the funds for the support of the community support system were originally allocated.

SEC. 50. Section 5692 of the Welfare and Institutions Code is amended and renumbered to read:

5699. (a) The Legislature finds and declares all of the following:

(1) That mental health case management services required for children with serious emotional disturbance are different than these services for mentally disordered clients described in Chapter 2.5 (commencing with Section 5670).

(2) That mental health case management services for children with serious emotional disturbance are not defined in statute.

(3) That the development of mental health case management for these children would assure comprehensive appraisal and utilization of the most appropriate resources within the children's environment as well as the maintenance and strengthening of family ties.

(b) It is the intent of the Legislature to encourage the development of mental health case management services for children with serious emotional disturbance who are separated or at risk of being separated from their families and require mental health treatment, to the extent resources are available. It is further the intent of the Legislature that mental health case management for children with serious emotional disturbance in this state be

developed in accordance with the definitions and guidelines contained in this chapter.

SEC. 51. Section 5692.5 of the Welfare and Institutions Code is amended and renumbered to read:

5699.1. Unless the context otherwise requires, the definitions in this article govern the construction of this chapter.

SEC. 52. Section 5695.7 of the Welfare and Institutions Code is amended to read:

5695.7. (a) The board of directors shall be composed of the chief probation officer and the local mental health directors of each of the participating counties.

(b) The regional facilities shall operate under the administration of the onsite director who shall be directly responsible to the board of directors for adherence to all policies and procedures established by the board and to the intent of the Legislature stated in Section 5695.

SEC. 53. Section 5699 of the Welfare and Institutions Code is amended and renumbered to read:

5699.2. "Child with serious emotional disturbance" means a minor under 18 years of age described in Section 5600.3 who meets one or more of the following criteria:

(a) A child who is a ward or dependent of the juvenile court pursuant to Section 300, 601, or 602 and is placed out-of-home.

(b) A child who is a special education student defined in paragraph 8 of subdivision (b) of Section 300.5 of Title 34 of the Code of Federal Regulations and is receiving residential care pursuant to an individual educational program. This section also includes special education students through age 21 identified in paragraph (4) of subdivision (c) of Section 56026 of the Education Code.

(c) An inpatient in a psychiatric hospital, psychiatric health facility, or residential treatment facility receiving services either on a voluntary or involuntary basis.

(d) An outpatient receiving intensive non-24-hour mental health treatment, such as day treatment or crisis services who is "at risk" of psychiatric hospitalization or out-of-home placement for residential treatment.

SEC. 54. Section 5699.1 of the Welfare and Institutions Code is amended and renumbered to read:

5699.3. "Individual treatment plan" means a plan that includes all of the following:

(a) An assessment of the minor's specific capabilities and problems.

(b) A statement of specific, time-limited objectives for improving the capabilities and resolving the problems. The objectives shall be stated in measurable terms which allow measurement of progress.

(c) A schedule of the type and amount of services to achieve treatment plan objectives, including identification of the provider or providers of service responsible for attaining each objective.

(d) A schedule of regular periodic review and reassessment to

ascertain that planned services have been provided and that objectives have been reached within the times specified.

SEC. 55. Section 5699.2 of the Welfare and Institutions Code is amended and renumbered to read:

5699.4. On and after January 1, 1987, any county may provide case management services for children with serious emotional disturbance pursuant to this chapter. The case management services may include all of the following:

(a) Development of an individual treatment plan for each child. The plan shall be collaboratively prepared and reviewed and modified, if necessary, at least annually, by one representative of the mental health program, the parents, legal guardian, conservator, or court appointed social worker or probation officer, and, where appropriate, the minor.

(b) Assignment of a mental health case manager to each child. The duties of the mental health case manager may include, but not be limited to, all of the following:

(1) Coordinating an ecological assessment of the child's needs which evaluates the child both individually and in relation to his or her family, school, and community environments.

(2) Developing, implementing, monitoring, and reviewing each individual treatment plan that addresses the identified needs.

(3) Linking and arranging or providing for the needed services.

(4) Monitoring the adequacy of the services provided.

(5) Advocating for the minor.

SEC. 58. Section 5704 of the Welfare and Institutions Code is amended to read:

5704. Funds described in paragraphs (1) and (2) of subdivision (a) of Section 5700 shall be deposited in the mental health account of the local health and welfare trust fund and shall only be used to fund expenditures for the costs of mental health services as delineated in regulations promulgated by the department, and shall not be used to fund expenditures for costs excluded by Section 5714 or for costs specifically excluded from funding from this source by any other provision of law.

SEC. 59. Section 5705 of the Welfare and Institutions Code is amended to read:

5705. (a) It is the intent of the Legislature that the use of negotiated net amounts or rates, as provided in this section, be given preference in contracts for services under this division.

(b) Negotiated net amount or rates may be used as the cost of services in contracts between the state and the county or contracts between the county and a subprovider of services, or both, in accordance with the following provisions:

(1) A negotiated net amount shall be determined by calculating the total budget for services for a program or a component of a program, less the amount of projected revenue. All participating government funding sources, except for the Medi-Cal program (Chapter 7 (commencing with Section 14000) of Part 3 of Division

9), shall be bound to that amount as the cost of providing all or part of the total county mental health program as described in the county performance contract for each fiscal year, to the extent that the governmental funding source participates in funding the county mental health programs. Where the State Department of Health Services promulgates regulations for determining reimbursement of Short-Doyle mental health services allowable under the Medi-Cal program, those regulations shall be controlling as to the rates for reimbursement of Short-Doyle mental health services allowable under the Medi-Cal program and rendered to Medi-Cal beneficiaries. Providers under this subdivision shall report to the State Department of Mental Health and local mental health programs any information required by the State Department of Mental Health in accordance with procedures established by the Director of Mental Health.

(2) A negotiated rate is the payment for services delivered on a per unit of service basis. All participating governmental funding sources shall be bound by that amount as the cost of providing that service for that county mental health program to the extent that the governmental funding source participates in funding the county and mental health program. Where the State Department of Health Services promulgates regulations for determining reimbursement of Short-Doyle mental health services allowable under the Medi-Cal program, those regulations shall be controlling as to the rates for reimbursement of Short-Doyle mental health services allowable under the Medi-Cal program and rendered to Medi-Cal beneficiaries. Providers under this subdivision shall report to the local mental health program and the local mental health program shall report to the State Department of Mental Health any information required by the department in accordance with procedures established by the Director of Mental Health.

(c) Notwithstanding any other provision of this division or Division 9 (commencing with Section 10000), absent a finding of fraud, abuse, or failure to achieve contract objectives, no restrictions, other than any contained in the contract, shall be placed upon a provider's expenditure or retention of funds received pursuant to this section.

SEC. 60. Section 5711 of the Welfare and Institutions Code is amended to read:

5711. (a) In the case of federal audit exceptions, federal audit appeal processes shall be followed unless the State Department of Mental Health, in consultation with the California Conference of Local Mental Health Directors, determines that those appeals are not cost beneficial.

(b) Whenever there is a final federal audit exception against the state resulting from expenditure of federal funds by individual counties, the State Department of Mental Health or the State Department of Health Services may request the Controller's office to offset the county's allocation from the Mental Health Subaccount

of the Sales Tax Account of the Local Revenue Fund by the amount of the exception. The Controller shall be provided evidence that the county has been notified of the amount of the audit exception no less than 30 days before the offset is to occur. The State Department of Mental Health and the State Department of Health Services shall involve the appropriate counties in developing responses to any draft federal audit reports which may directly impact the counties.

SEC. 61. Section 5712 of the Welfare and Institutions Code is amended to read:

5712. The department shall contract with counties for the funds appropriated to, and allocated by, the department pursuant to paragraph (2) of subdivision (a) of Section 5700 in accordance with the following:

(a) The net cost of all services specified in the contract between the counties and the department shall be financed on a basis of 90 percent state funds and 10 percent county funds except for services to be financed from other public or private sources as indicated in the contracts.

(b) The cost requirement for local financial participation pursuant to this section shall be waived for all counties with a population of 125,000 or less based on the most recent available estimates of population data as determined by the Population Research Unit of the Department of Finance.

SEC. 62. Section 5714 of the Welfare and Institutions Code is amended to read:

5714. To continue county expenditures for legal proceedings involving mentally disordered persons, the following costs incurred in carrying out Part 1 (commencing with Section 5000) of this division shall not be paid for from funds designated for mental health services.

(a) The costs involved in bringing a person in for 72-hour treatment and evaluation.

(b) The costs of court proceedings for court-ordered evaluation, including the service of the court order and the apprehension of the person ordered to evaluation when necessary.

(c) The costs of court proceedings in cases of appeal from 14-day intensive treatment.

(d) The cost of legal proceedings in conservatorship other than the costs of conservatorship investigation as defined by regulations of the State Department of Mental Health.

(e) The court costs in postcertification proceedings.

(f) The cost of providing a public defender or other court-appointed attorneys in proceedings for those unable to pay.

SEC. 63. Section 5716 of the Welfare and Institutions Code is amended to read:

5716. Counties may contract with providers on a negotiated rate or negotiated net amount basis for services funded from amounts allocated to the county by the department in the same manner as set forth in Section 5705, except that the negotiated rate or net amount

shall be approved by the department. If the negotiated rate or net amount is not approved by the department, reimbursement to the county shall be in accordance with applicable provisions of this chapter and department regulation. If a negotiated net rate contract is not approved by the department, the contract shall be based upon actual cost.

SEC. 64. Section 5721 of the Welfare and Institutions Code is amended to read:

5721. Except as otherwise provided in this section, in determining the amounts which may be paid, fees paid by persons receiving services or fees paid on behalf of persons receiving services by the federal government, by the California Medical Assistance Program set forth in Chapter 7 (commencing with Section 14000) of Part 3 of Division 9, and by other public or private sources, shall be deducted from the costs of providing services. However, a county may negotiate a contract which permits a mental health care provider to retain unanticipated funds above the budgeted contract amount, provided that the unanticipated revenues are utilized for the mental health services specified in the contract. If a provider is permitted by contract to retain unanticipated revenues above the budgeted amount, the mental health provider shall specify the services funded by those revenues in the year end cost report submitted to the county. A county shall not permit the retention of any fees paid by private resources on behalf of Medi-Cal beneficiaries without having those fees deducted from the costs of providing services. Whenever feasible, mentally disordered persons who are eligible for mental health services under the California Medical Assistance Program shall be treated in a facility approved for reimbursement in that program. General unrestricted or undesignated private charitable donations and contributions made to charitable or nonprofit organizations shall not be considered as "fees paid by persons" or "fees paid on behalf of persons receiving services" under this section and the contributions shall not be applied in determining the amounts to be paid. These unrestricted contributions shall not be used in part or in whole to defray the costs or the allocated costs of the California Medical Assistance Program.

SEC. 65. Section 5722 of the Welfare and Institutions Code is amended to read:

5722. (a) The department shall have responsibility, as delegated by the State Department of Health Services, for conducting investigations and audits of claims and reimbursements for expenditures for mental health services provided by county mental health programs to Medi-Cal eligible individuals.

(b) The amount of the payment or repayment of federal funds in accordance with audit findings pertaining to Short-Doyle Medi-Cal mental health services shall be determined by the State Director of Health Services pursuant to the existing administrative appeals process of the State Department of Health Services.

SEC. 66. Section 5724 of the Welfare and Institutions Code is

amended to read:

5724. (a) The department, in consultation with the California Conference of Local Mental Health Directors, shall as expeditiously as possible, but no later than March 31, 1992, develop a new ratesetting methodology for use in the Short-Doyle Medi-Cal system. The department shall transmit the proposed methodology to the State Department of Health Services to be incorporated into the state's Medi-Cal plan for the following fiscal year. It is intended that this rate system be in place for the 1992–93 fiscal year, to the extent permitted by federal law. The proposal shall include all of the following:

(1) Maximum appropriate reimbursement for administrative support costs including, but not limited to, quality assurance, utilization review, technical assistance, training, cost accounting, intake processing, outreach services, and direct administrative activities.

(2) Greater reliance on prospective rates which may be regionally based and which shall not be subject to retrospective adjustment and which will reduce the administrative burden on the counties and the state related to cost reporting and auditing consistent with the overall goals of realignment.

(3) Alternative methodologies for establishing reimbursement limits.

(b) This methodology shall not be implemented until it has received any necessary federal approvals.

SEC. 67. Section 5750 of the Welfare and Institutions Code is amended to read:

5750. (a) The State Department of Mental Health shall administer this part and shall adopt standards for approval of mental health services, and rules and regulations necessary thereto. However, these standards, rules, and regulations shall be adopted only after consultation with the California Council on Mental Health and the California Conference of Local Mental Health Directors. Adoption of these standards, rules, and regulations shall require approval by the California Conference of Local Mental Health Directors by majority vote of those present at an official session except for regulations pertaining to psychiatric health facilities. For regulations pertaining to psychiatric health facilities, the vote by the conference, following consultation, shall be only advisory to the State Department of Mental Health.

(b) If the conference refuses or fails to approve standards, rules, or regulations submitted to it by the State Department of Mental Health for its approval, the State Department of Mental Health may submit these standards, rules, or regulations to the conference at its next meeting, and if the conference again refuses to approve them, the matter shall be referred for decision to a committee composed of the Secretary of the Health and Welfare Agency, the Director of Mental Health, the President of the California Conference of Local Mental Health Directors, the Chairman of the California Council on

Mental Health, and a member designated by the State Advisory Health Council.

(c) (1) From July 1, 1991, to June 30, 1993, inclusive, the conference shall not approve regulations of the State Department of Mental Health. The impact on this subdivision of regulatory timing shall be included in the department's report to the Legislature on September 30, 1992.

(2) The department shall continue during that period to involve the conference in the development of all regulations which affect local mental health programs, prior to the promulgation of those regulations pursuant to the Administrative Procedure Act.

SEC. 68. Section 5750.1 of the Welfare and Institutions Code is amended to read:

5750.1. Notwithstanding Section 5750, any standard, rule, or policy, not directly the result of a statutory or administrative law change, adopted by the department or county during the term of an existing county performance contract shall not apply to the negotiated rate and net amount terms of that contract under Sections 5705 and 5716, but shall only apply to contracts established after adoption of the standard, rule, or policy.

SEC. 69. Section 5764 of the Welfare and Institutions Code is amended to read:

5764. The California Council on Mental Health shall have the powers and authority necessary to carry out the duties imposed upon it by this chapter, including, but not limited to, the following:

(a) To advise the Director of Mental Health on the development of the state three-year mental health plan and the system of priorities contained in that plan.

(b) To periodically review all mental health services in California, conducting independent investigations and studies as necessary.

(1) The council shall assess the impact of the realignment of services from the state to the county on services delivered to clients and on the local community. The council shall report this information to the Legislature prior to fiscal committee deliberations for the 1992–93 fiscal year. The report shall include recommendations provided to the council by the Organization of Mental Health Advisory Boards pursuant to paragraph (1) of subdivision (b) of Section 5604.2. The council shall provide a final report to the Legislature on the impact of realignment no later than January 15, 1993.

(2) The council shall review pertinent portions of the proposed plans and budgets of all state agencies serving persons with mental disabilities, including the Departments of Education, Rehabilitation, Health Services, Transportation, Social Services, Developmental Services, Employment, Youth Authority, Corrections, and Parks and Recreation and the Office of Statewide Health Planning and Development and may include public hearings. The California Council on Mental Health may prepare any necessary reports to the Governor, the Legislature, and the Director of Mental Health, and

the State Advisory Health Council.

(c) To suggest rules, regulations and standards for the administration of this division.

(d) To encourage the coordination of community mental health resources, with the purpose of avoiding duplication and fragmentation of services.

(e) To mediate disputes between counties and the state arising under this part.

(f) To employ administrative, technical, and other personnel necessary for the performance of its powers and duties, subject to the approval of the Department of Finance.

(g) To fix the salaries of the personnel employed pursuant to this section which salaries shall be fixed as nearly as possible to conform to salaries established by the Department of Personnel Administration for classes of positions in the state civil service involving comparable duties and responsibilities.

(h) To accept any federal fund granted, by act of Congress or by executive order, for purposes within the purview of the California Council on Mental Health, subject to the approval of the Department of Finance.

(i) To accept any gift, donation, bequest, or grants of funds from private and public agencies for all or any of the purposes within the purview of the California Council on Mental Health, subject to the approval of the Department of Finance.

(j) To act as the state council required by Public Law 94-63 to advise the Director of Mental Health on the development of the Community Mental Health Services Plan. For the purposes of implementing this function of the California Council on Mental Health only, the Director of Mental Health or his or her designee and the Secretary of the Health and Welfare Agency or his or her designee shall serve on the council. Additional functions of the council under this section shall include: (1) to develop and implement procedures for conducting the annual review of and for publicizing the Community Mental Health Services Plan; and (2) to submit as part of the state plan, the council's report resulting from such annual review.

(k) This section shall become inoperative on July 1, 1993, and, as of January 1, 1994, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1994, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 70. Section 5802 of the Welfare and Institutions Code is amended to read:

5802. (a) The State Department of Mental Health shall issue a request for proposals to develop the demonstration projects no later than February 1, 1989. Contracts for county demonstration projects shall be awarded no later than June 1, 1989. Nothing in this part shall be construed to restrict a demonstration county from contracting for part or all services included in the demonstration project proposal. The request for proposals shall include the following specifications:

(1) Proposals may be submitted as a regional system of care by smaller counties acting jointly, independent countywide proposals, and proposals to serve discrete geographic areas within counties. The department shall establish reporting requirements for direct and indirect administrative overhead. Guidelines for reporting administrative charges shall be included in the request for proposals. Weight shall be given to counties with lower administrative overhead costs but in no case shall administrative costs exceed those of existing county mental health programs and services.

(2) The demonstration projects shall identify all members of the target population as defined in subdivisions (a) to (e), inclusive, of Section 5831, in their respective region, county, or service area. The proposal shall identify the number of target population clients to be served through the demonstration project. Weight shall also be given to applicant counties to the extent that resources from county agencies other than the mental health department are used to develop interagency services for the target population during the demonstration period.

(3) Proposals shall identify county staff and resources necessary to meet requirements established by the State Department of Mental Health to measure client and cost outcome and interagency collaboration for the system of care.

(b) Proposals must be approved by the board of supervisors and the local mental health advisory board.

(c) Upon selection of the demonstration counties, the State Department of Mental Health shall enter into annual performance contracts with the selected counties. The contracts required pursuant to this chapter, and pursuant to Chapters 2 (commencing with Section 5808) and 5 (commencing with Section 5833), shall be exempt from the requirements of the Public Contract Code and the State Administrative Manual and shall be exempt from approval by the Department of General Services.

SEC. 71. Section 5851 of the Welfare and Institutions Code is amended to read:

5851. It is the intent of the Legislature to do all of the following:

(a) To phase in the system developed in the demonstration project under Chapter 7 (commencing with Section 5575), as added by Chapter 160 of the Statutes of 1987, statewide, once final results are available from the project and assuming that these results demonstrate achievement of specific client measurable outcomes and cost avoidance. The Legislature recognizes that a major component of this system began in the 1984–85 fiscal year through the implementation of Chapter 1474 of the Statutes of 1984.

(b) To create and fund a coordinated comprehensive mental health services system for children with serious emotional disturbance and to their families or foster families in participating counties.

(c) To develop a system which will include joint evaluation of the child, and give priority to all of the following:

(1) Enabling the child to remain at home whenever possible.

(2) Providing placement in the least restrictive and least costly setting consistent with the child's needs.

(3) Enabling the child to receive out-of-home services in as close a proximity as possible to the child's usual residence.

(d) To separately identify and categorize funding for these services.

SEC. 72. Section 5905 of the Welfare and Institutions Code is amended to read:

5905. (a) Funds that remain unspent at the close of the fiscal year, after final determination of costs, shall be made available to the counties in accordance with the methods determined by the director pursuant to Section 5906, for mental health expenditures. However, to the extent that unforeseen circumstances arise during the 1991–92 fiscal year as described in Section 5904, the department shall use these unspent funds to cover the increased costs for the basic level of care.

(b) This section shall become inoperative on July 1, 1993, and as of January 1, 1994, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1994, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 73. Section 10604.5 of the Welfare and Institutions Code is amended to read:

10604.5. (a) (1) Exclusive of county claims associated with the Child Support Program, commencing July 1, 1992, the department shall pay only those county claims for federal or state reimbursement under this division which are filed with the department within nine months of the end of the calendar quarter in which the costs are paid. A claim filed after that time may only be paid if the claim falls within the exceptions set forth in federal law. Any claim filed with the department after July 1, 1985, shall be subject to these limitations.

(2) The department may change the nine-month limitation specified in paragraph (1), as deemed necessary by the department to comply with federal changes which affect claiming time limits.

(b) (1) The department may waive the time limit imposed by subdivision (a) if the department determines there was good cause for a county's failure to file a claim or claims within the time limit.

(2) (A) For purposes of this subdivision, "good cause" means circumstances which are beyond the county's control, including acts of God and documented action or inaction by the state or federal government.

(B) "Circumstances beyond the county's control" do not include neglect or failure on the part of the county or any of its offices, officers, or employees.

(C) A county shall request a waiver of the time limit imposed by this section for good cause in accordance with regulations adopted and promulgated by the department.

(3) The department's authority to waive the time limit under this subdivision shall be subject to the availability of funds and shall not

apply to claims submitted beyond 18 months after the end of the calendar quarter in which costs were paid.

SEC. 74. Section 10604.6 is added to the Welfare and Institutions Code, to read:

10604.6. (a) The department shall pay only those claims for federal or state reimbursement under this division which are filed with the department within 18 months after the end of the calendar quarter in which the costs are paid.

(b) Any claim which is filed after the time specified in subdivision (a) may be paid only if an exception under federal law applies to that claim.

SEC. 75. Section 14153 of the Welfare and Institutions Code is amended to read:

14153. Funds shall be advanced monthly to the respective counties for costs of administration of the Medi-Cal program in the manner prescribed in Chapter 9 (commencing with Section 15000).

Funds may be advanced monthly to the respective counties for the costs of care under the provisions of this chapter upon the order of the Director of Finance and the State Director of Health Services utilizing resources made available through the Health Care Deposit Fund.

County welfare departments shall submit administrative claims for the Medi-Cal program in accordance with procedures described in Section 10604.5.

SEC. 76. Section 16800 of the Welfare and Institutions Code is amended to read:

16800. (a) For purposes of this part, "local jurisdiction" means a county, a city and county, or the City of Berkeley, Long Beach, or Pasadena.

(b) (1) On or before September 15, 1991, and annually thereafter, the governing body of each local jurisdiction shall adopt and submit to the department a county health services plan and budget in the form and in accordance with procedures established in regulations promulgated by the department. The department shall submit a copy of each plan, upon receipt, to the Legislative Analyst. Each copy of each plan shall include a description of the measures each governing body is taking to provide access to care for indigent adults and racial and ethnic minorities, and for securing cooperation among the various local jurisdiction agencies, local providers, and nonprofit community-based organizations. Each governing board is encouraged to establish a health planning committee that shall consist of private health care providers, nonprofit community-based health providers, representatives of organizations representing public and private sector health care workers, and representatives of racial and ethnic minorities and of medically indigent adults.

(2) For the 1991–92 fiscal year, the department may extend the due date for the plans and budgets under paragraph (1) up to 90 days.

(c) It is the intent of the Legislature that:

(1) Information required pursuant to this part shall be minimized so that data shall be available to the state department to perform necessary administrative functions, including, but not limited to, statewide leadership, oversight and coordination, professional consultation and assistance, data collection and reporting, contract-back options, monitoring and evaluation, standards compliance, and to meet legislative reporting requirements while not placing an undue administrative burden on the resources of any local jurisdiction.

(2) The continuing need for plans and budgets required pursuant to this section, for the cost report specified in Section 16806, for the report pursuant to Section 16808.1, and for all other data reporting requirements specified in Part 4.7 (commencing with Section 16900) shall be included in the task force review required by Section 202 of the act which added this part.

SEC. 77. Section 16801 of the Welfare and Institutions Code is amended to read:

16801. The following definitions shall govern the construction of this part, unless the context requires otherwise:

(a) "County health services" means public health services, outpatient health services, and inpatient health services provided directly by a local jurisdiction or financed or purchased by a local jurisdiction through grants, contracts, or agreements but shall not include mental health services, alcohol and drug abuse services, and services which were provided in fiscal year 1977–78 but were not part of the reported net county costs for fiscal year 1977–78.

(b) "Net county costs for health services" means expenditures for county health services, less revenues received for county health services.

(c) "City health services" means public health services, outpatient health services, and inpatient health services provided directly by the city or financed or purchased by the city through grants, contracts, or agreements, but shall not include mental health services, alcohol and drug abuse services, and services which were not provided in the 1977–78 fiscal year but were not part of the reported net county costs for the 1977–78 fiscal year.

(d) "Department" means the State Department of Health Services.

(e) "Net city costs for health services" means expenditures for city health services, less revenues received for city health services.

(f) "Program account" means the County Medical Services Program Account in the County Health Services Fund.

(g) "Reserve account" means the County Medical Services Program Reserve Account in the County Health Services Fund.

SEC. 78. Section 16803 of the Welfare and Institutions Code is amended to read:

16803. (a) The County Health Services Fund is hereby created, and notwithstanding Section 13340 of the Government Code, is

continuously appropriated to the department, without regard to fiscal years, for the purposes of this part.

(b) The expenditure of funds from the County Health Services Fund shall be made by the State Department of Health Services without regard to fiscal year.

SEC. 79. Section 16808.1 of the Welfare and Institutions Code is amended to read:

16808.1. (a) The State Department of Health Services shall, no later than April 15 of each year, submit an annual report to the Legislature on county health services.

(b) The report shall contain information on both budgeted and expended state and county funds for county health services.

(c) The report shall provide data and analysis on county health services fiscal trends and information on the resources, types, and units of services provided by counties. The service information shall describe specific services provided and shall be tabulated by county.

(d) (1) The report shall contain the information on closings of county hospitals or other county medical facilities, elimination or reduction of areas of service in county hospitals or other county medical facilities, and reduction in the level of services to indigents as of January 1, 1975, as reported by counties pursuant to Section 1442 of the Health and Safety Code, as that section existed on December 31, 1986.

(2) The report shall also review each county's compliance with Sections 16990 and 16995.

(e) For the 1991–92 fiscal year, the report shall contain information on department and county actions necessitated by the changes in funding sources for health services. For the 1992–93 fiscal year and each year thereafter, the report shall include an evaluation of the impact of the changes in funding sources for health services made on July 1, 1991.

SEC. 80. Section 16809 of the Welfare and Institutions Code is amended to read:

16809. (a) The board of supervisors of a county which contracted with the department pursuant to Section 16709 during the 1990–91 fiscal year and of any county with a population under 300,000, as determined in accordance with the 1990 decennial census, may enter into a contract with the department and the department may enter into a contract with that county under which the department agrees to administer the program responsibilities for specified health services to county residents certified eligible for those services by the county.

(b) (1) Each county intending to contract with the department pursuant to this section shall submit to the department a notice of intent to contract adopted by the board of supervisors. The notice shall be submitted no later than April 1 of the fiscal year preceding the fiscal year for which the agreement will be in effect in accordance with procedures established by the department.

(2) For the 1991–92 fiscal year only, and notwithstanding

paragraph (2) of subdivision (a) of Section 1498.1 of Title 17 of the California Code of Regulations, the notice of intent to contract submitted by an eligible county pursuant to this section shall not be legally binding on that county or the state until 15 days after the enactment of the Budget Act of 1991.

(3) For the 1991–92 fiscal year only, contracts entered into pursuant to this section shall be governed by the following provisions:

(A) For a county which contracted with the department pursuant to Section 16709 during the 1990–91 fiscal year, the county may unilaterally terminate its contract and the effective date of termination shall be no earlier than the first day of the calendar month subsequent to 45 days after enactment of the Budget Act of 1991.

(B) For a county eligible pursuant to subdivision (a) which did not contract with the department pursuant to Section 16709 during the 1990–91 fiscal year, the county and the department may enter into a contract which shall have an effective date, at the discretion of the department no later than January 1, 1992.

(C) For a county which contracted with the department pursuant to Section 16709 during the 1990–91 fiscal year, the effective date of contracting shall be July 1, 1991, unless the county terminates participation pursuant to subparagraph (A).

(c) A county contracting with the department pursuant to this section shall not be relieved of its indigent health care obligation under Section 17000.

(d) The department shall establish the County Medical Services Program Account in the County Health Services Fund. The following amounts may be deposited in the program account:

(1) Any interest earned upon money deposited in the program account.

(2) Moneys provided by participating counties or appropriated by the Legislature to the program account.

(3) Moneys loaned pursuant to subdivision (q).

(e) Moneys in the program account shall be used by the department for both of the following purposes:

(1) To pay for health care services provided to the county residents meeting the eligibility criteria established pursuant to subdivision (j).

(2) (A) To pay for services for persons requiring emergency treatment, regardless of their county of residence, including those persons whose immigration status has not been established, who are unable to pay for those services, and for whom payment will not be made through any private coverage or by any other program funded in whole or in part by the state or the federal government.

(B) (i) Notwithstanding any other provision of this section, except as provided in clause (ii), money in the program account shall not be used to pay for services for individuals who are not residents of counties that contract with the department pursuant to this

section.

(ii) Clause (i) does not apply to services that are related to any accident or illness that occurs within a county that contracts with the department pursuant to this section.

(f) (1) Moneys in the program account shall be administered on an accrual basis and notwithstanding any other provision of law, except as provided in this section, shall not be transferred to any other fund or account in the State Treasury except for purposes of investment as provided in Article 4 (commencing with Section 16470) of Chapter 3 of Part 2 of Division 4 of Title 2 of the Government Code.

(2) (A) Any interest or other increment resulting from the investment shall be deposited in the program account, at the end of the 1982–83 fiscal year and every six months thereafter, notwithstanding Section 16305.7 of the Government Code.

(B) All interest deposited pursuant to subparagraph (A) shall be available to reimburse program-covered services, or for expenditure to augment the program's rates, benefits or eligibility criteria pursuant to subdivision (j).

(g) The department shall establish a separate County Medical Services Program Reserve Account, hereafter referred to as the reserve account, in the County Health Services Fund. Six months after the end of each fiscal year, any projected savings in the program account shall be transferred to the reserve account, with final settlement occurring no more than 12 months later. Moneys in this account shall be utilized when expenditures for health services made pursuant to subdivision (j) for a fiscal year exceed the amount of funds available in the program account for that fiscal year. When funds in the reserve account are estimated to exceed 10 percent of the budget for health services for all counties electing to contract with the department under this section for the fiscal year, the additional funds shall be available for expenditure to augment the rates, benefits, or eligibility criteria pursuant to subdivision (j) or for reducing the participation fees required of Section 16809.3.

(h) Moneys in the program account and the reserve account, except for funds provided by the state in excess of the amount required to fund the state risk specified in subdivision (j), and any funds loaned pursuant to subdivision (q), shall not be transferred to any other fund or account in the State Treasury except for purposes of investment as provided in Article 4 (commencing with Section 16470) of Chapter 3 of Part 2 of Division 4 of Title 2 of the Government Code. All interest or other increment resulting from investment shall be deposited in the program account, notwithstanding Section 16705.7 of the Government Code.

(i) (1) Counties shall pay by the 15th of each month the agreed upon contract amount. In the event a county does not make the agreed upon monthly payment, the department may terminate the county's participation in the program.

(2) A county may request, due to financial hardship, that

payments under paragraph (1) be delayed. The request shall be subject to approval by the Small County Advisory Committee.

(3) Payments made pursuant to this subdivision shall be deposited in the program account.

(4) Payments may be made as a part of the deposit authorized by the county pursuant to Sections 17603.05 and 17604.05.

(j) (1) For the 1991–92 fiscal year and all preceding fiscal years, the state shall be at risk for any costs over and above the amounts deposited in the reserve account.

(2) (A) Beginning in the 1992–93 fiscal year and for each fiscal year thereafter, counties shall assume the risk for cost increases of the County Medical Services Program not funded through other sources. This risk shall be limited to the cumulative annual growth in the Local Revenue Fund created by Section 17600 according to the table specified in paragraph (3) to the County Medical Services Program. Cost increases shall be allocated proportionately to each county's actual growth in dedicated revenues. The state shall be at risk for any costs which exceed the cumulative annual growth in vehicle license fee and sales tax revenues deposited into the Local Revenue Fund for distribution to counties participating in the County Medical Services Program.

(B) As a condition of the state assuming this risk, the department may require uniform eligibility criteria and benefits to be provided which shall be mutually established by participating counties in conjunction with the department. The department in consultation with the counties may revise these eligibility criteria and benefits or alter rates of payment during the fiscal year in order to ensure that sufficient funds are available for health services to county residents certified as eligible for the services. The counties and the department shall work collectively to ensure that expenditures do not exceed the funds available in the program account and may adjust eligibility and benefit criteria and payments accordingly.

(3) For the 1991–92 fiscal year, jurisdictional risk limitations shall be as follows:

Jurisdiction	Amount
Alpine	$ 13,160
Amador	620,695
Butte	5,954,724
Calaveras	914,593
Colusa	800,543
Del Norte	781,900
El Dorado	3,537,742
Glenn	788,480
Humboldt	6,887,960
Imperial	6,398,861
Inyo	1,101,021
Kings	2,834,800
Lassen	687,590

Madera	2,884,148
Marin	7,731,272
Mariposa	435,364
Modoc	469,359
Mono	369,566
Napa	3,065,093
Nevada	1,862,085
Plumas	905,820
San Benito	1,086,765
Shasta	5,364,735
Sierra	135,983
Siskiyou	1,372,986
Solano	6,875,897
Sonoma	13,192,510
Sutter	2,998,198
Tehama	1,913,627
Trinity	611,922
Tuolumne	1,456,330
Yuba	2,397,243

(4) Beginning in the 1991–92 fiscal year and in subsequent fiscal years, the jurisdictional risk limitation for counties that did not contract with the department pursuant to Section 16709 during the 1990–91 fiscal year shall be the amount specified in subparagraph (A), plus the amount determined pursuant to subparagraph (B), minus the amount specified in Section 16809.3.

(A)

Jurisdiction	Amount
Lake	1,022,963
Mendocino	1,654,999
Merced	2,033,729
Placer	1,338,330
San Luis Obispo	2,000,491
Santa Cruz	3,037,783
Yolo	1,475,620

(B) The amount of funds necessary to fully fund the anticipated costs for the county shall be determined by the department. This amount shall be subject to the approval of both the Department of Finance and the Small County Advisory Committee before a county is permitted to contract back with the department.

(5) For the 1992–93 fiscal year and fiscal years thereafter, the amounts of the jurisdictional risk limitations shall be adjusted according to the provisions of paragraph (2).

(k) The Legislature hereby determines that an expedited contract process for contracts under this section is necessary. Contracts under this section shall be exempt from the provisions of Chapter 2 (commencing with Section 10290) of Part 2 of Division 2 of the Public Contract Code. Contracts shall have no force and effect

unless approved by the Department of Finance.

(*l*) The state shall not incur any liability except as specified in this section.

(m) The department may pursue third-party recoveries for services provided under this section pursuant to Article 3.5 (commencing with Section 14124.70) of Chapter 7 of Part 3.

(n) Under the program provided for in this section, the department shall reimburse hospitals for inpatient services at the rates negotiated for the Medi-Cal program by the California Medical Assistance Commission, pursuant to Article 2.6 (commencing with Section 10481) of Chapter 7 of Part 3, if both of the following circumstances exist:

(1) The hospital has a contract with the state for these rates of reimbursement.

(2) The California Medical Assistance Commission determines that reimbursement to the hospital at the contracted rate will not have a detrimental fiscal impact on either the Medi-Cal program or the program provided for in this section. In negotiating and renegotiating contracts with hospitals, the commission may seek terms which allow reimbursement for patients receiving services under this section at contracted Medi-Cal rates.

(o) Any hospital which has a contract with the state for inpatient services under the Medi-Cal program and which has been approved by the commission to be reimbursed for patients receiving services under this section shall not deny services to these patients.

(p) Participating counties may conduct an independent program review to identify ways through which program savings may be generated. The counties and the department shall collectively pursue identified options for the realization of program savings.

(q) The Department of Finance may authorize a loan of up to thirty million dollars ($30,000,000) for deposit into the program account to ensure that there are sufficient funds available to reimburse providers and counties pursuant to this section.

(r) This section shall remain operative only until July 1, 1994, and shall remain in effect only until January 1, 1995, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1995, deletes or extends that date.

SEC. 81. Section 16809 of the Welfare and Institutions Code is amended to read:

16809. (a) The board of supervisors of a county which contracted with the department pursuant to Section 16709 during the 1990–91 fiscal year and any county with a population under 300,000, as determined in accordance with the 1990 decennial census, may enter into a contract with the department and the department may enter into a contract with that county under which the department agrees to administer the program responsibilities for specified health services to county residents certified eligible for those services by the county.

(b) Each county intending to contract with the department

pursuant to this section shall submit to the department a notice of intent to contract adopted by the board of supervisors no later than April 1 of the fiscal year preceding the fiscal year for which the agreement will be in effect in accordance with procedures established by the department.

(c) A county contracting with the department pursuant to this section shall not be relieved of its indigent health care obligation under Section 17000.

(d) The department shall establish the County Medical Services Program Account in the County Health Services Fund. The following amounts may be deposited in the account:

(1) Any interest earned upon money deposited in the account.

(2) Moneys provided by participating counties or appropriated by the Legislature to the account.

(3) Moneys loaned pursuant to subdivision (p).

(e) Moneys in the program account shall be used by the department to pay for health care services provided to the county residents meeting the eligibility criteria established pursuant to subdivision (j).

(f) (1) Moneys in this account shall be administered on an accrual basis and notwithstanding any other provision of law, except as provided in this section, shall not be transferred to any other fund or account in the State Treasury except for purposes of investment as provided in Article 4 (commencing with Section 16470) of Chapter 3 of Part 2 of Division 4 of Title 2 of the Government Code.

(2) (A) All interest or other increment resulting from the investment shall be deposited in the Program Account, at the end of the 1982–83 fiscal year and every six months thereafter, notwithstanding Section 16305.7 of the Government Code.

(B) All interest deposited pursuant to subparagraph (A) shall be available to reimburse program-covered services, or for expenditures to augment the program's rates, benefits, or eligibility criteria pursuant to subdivision (j).

(g) The department shall establish a separate County Medical Services Program Reserve Account in the County Health Services Fund. Six months after the end of each fiscal year, any projected savings in the program account shall be transferred to the reserve account, with final settlement occurring no more than 12 months later. Moneys in this account shall be utilized when expenditures for health services made pursuant to subdivision (j) for a fiscal year exceed the amount of funds available in the program account for that fiscal year. When funds in the reserve account are estimated to exceed 10 percent of the budget for health services for all counties electing to contract with the department under this section for the fiscal year, the additional funds shall be available for expenditure to augment the rates, benefits, or eligibility criteria pursuant to subdivision (j) or for reducing the participation fees required by Section 16809.3.

(h) Moneys in the program account and the reserve account,

except for moneys provided by the state in excess of the amount required to fund the state risk specified in subdivision (j), and any funds loaned pursuant to subdivision (p), shall not be transferred to any other fund or account in the State Treasury except for purposes of investment as provided in Article 4 (commencing with Section 16470) of Chapter 3 of Part 2 of Division 4 of Title 2 of the Government Code. All interest or other increment resulting from investment shall be deposited in the program account, notwithstanding Section 16705.7 of the Government Code.

(i) (1) Counties shall pay by the 15th of each month the agreed upon contract amount. In the event a county does not make the agreed upon monthly payment, the department may terminate the county's participation in the program.

(2) A county may request, due to financial hardship, the payments under paragraph (1) be delayed. The request shall be subject to approval by the Small County Advisory Committee.

(3) Payments made pursuant to this subdivision shall be deposited in the program account.

(4) Payments may be made as part of the deposits authorized by the county pursuant to Sections 17603.05 and 17604.05.

(j) (1) (A) For the 1991–92 fiscal year and all preceding fiscal years, the state shall be at risk for any costs in excess of the amounts deposited in the reserve fund.

(B) Beginning in the 1992–93 fiscal year and for each fiscal year thereafter, counties shall assume the risk for cost increases of the County Medical Services Program not funded through other sources. This risk shall be limited to the cumulative annual growth in the Local Revenue Fund created by Section 17600 according to the table specified in paragraph (2) to the County Medical Services Program. Cost increases shall be allocated proportionately to each county's actual growth in dedicated revenues. The state shall be at risk for any costs which exceed the cumulative annual growth in dedicated sales tax and vehicle licensing fee revenues.

(C) As a condition of the state assuming this risk, the department may require uniform eligibility criteria and benefits to be provided which shall be mutually established by participating counties in conjunction with the department. The department, in consultation with the counties, may revise these eligibility criteria and benefits or alter rates of payment during the fiscal year in order to assure that sufficient funds are available for health services to county residents certified as eligible for the services. The counties and the department shall work collectively to ensure that expenditures do not exceed the funds available in the program account and may adjust eligibility and benefit criteria and payments accordingly.

(3) For the 1991–92 fiscal year, jurisdictional risk limitations shall be as follows:

Jurisdiction	Amount
Alpine	$ 13,160
Amador	620,695
Butte	5,954,724
Calaveras	914,593
Colusa	800,543
Del Norte	781,900
El Dorado	3,537,742
Glenn	788,480
Humboldt	6,887,960
Imperial	6,398,861
Inyo	1,101,021
Kings	2,834,800
Lassen	687,590
Madera	2,884,148
Marin	7,731,272
Mariposa	435,364
Modoc	469,359
Mono	369,566
Napa	3,065,093
Nevada	1,862,085
Plumas	905,820
San Benito	1,086,765
Shasta	5,364,735
Sierra	135,983
Siskiyou	1,372,986
Solano	6,875,897
Sonoma	13,192,510
Sutter	2,998,198
Tehama	1,913,627
Trinity	611,922
Tuolumne	1,456,330
Yuba	2,397,243

(4) Beginning in the 1991–92 fiscal year and in subsequent fiscal years, the jurisdictional risk limitation for the counties that did not contract with the department pursuant to Section 16709 during the 1990–91 fiscal year shall be the amount specified in paragraph (A) plus the amount determined pursuant to paragraph (B), minus the amount specified in Section 16809.3.

(A)

Jurisdiction	Amount
Lake	1,022,963
Mendocino	1,654,999
Merced	2,033,729
Placer	1,338,330
San Luis Obispo	2,000,491
Santa Cruz	3,037,783
Yolo	1,475,620

(B) The amount of funds necessary to fully fund the anticipated costs for the county shall be determined by the department. This amount shall be subject to the approval of both the Department of Finance and the Small County Advisory Committee before a county is permitted to contract back with the department.

(5) For the 1992–93 fiscal year and fiscal years thereafter, the amounts of the jurisdictional risk limitations shall be adjusted according to the provisions of paragraph (2).

(k) The Legislature hereby determines that an expedited contract process for contracts under this section is necessary. Contracts under this section shall be exempt from the provisions of Chapter 2 (commencing with Section 10290) of Part 2 of Division 2 of the Public Contract Code. Contracts shall have no force and effect unless approved by the Department of Finance.

(*l*) The state shall not incur any liability except as specified in this section.

(m) The department may pursue third-party recoveries for services provided under this section pursuant to Article 3.5 (commencing with Section 14124.70) of Chapter 7 of Part 3.

(n) Under the program provided for in this section, the department shall reimburse hospitals for inpatient services at the rates negotiated for the Medi-Cal program by the California Medical Assistance Commission, pursuant to Article 2.6 (commencing with Section 14081) of Chapter 7 of Part 3, if both of the following circumstances exist:

(1) The hospital has a contract with the state for these rates of reimbursement.

(2) The California Medical Assistance Commission determines that reimbursement to the hospital at the contracted rate will not have a detrimental fiscal impact on either the Medi-Cal program or the program provided for in this section. In negotiating and renegotiating contracts with hospitals, the commission may seek terms which allow reimbursement for patients receiving services under this section at contracted Medi-Cal rates.

(o) Any hospital which has a contract with the state for inpatient services under the Medi-Cal program and which has been approved by the commission to be reimbursed for patients receiving services under this section shall not deny services to these patients.

(p) Participating counties may conduct an independent program review to identify ways through which program savings may be generated. The counties and the department shall collectively pursue identified options for the realization of program savings.

(q) The Department of Finance may authorize a loan of up to thirty million dollars ($30,000,000) for deposit into the program account to ensure that there are sufficient funds available to reimburse providers and counties pursuant to this section.

(r) This section shall become operative July 1, 1994.

SEC. 82. Section 16809.3 of the Welfare and Institutions Code is amended to read:

16809.3. (a) Beginning in the 1991–92 fiscal year, and in each fiscal year thereafter, a county shall pay the amount listed below to the department as a condition of participation in the County Medical Services Program administered pursuant to Section 16809:

Jurisdiction	Amount
Alpine	$ 661
Amador	17,107
Butte	459,610
Calaveras	46,969
Colusa	28,997
Del Norte	39,424
El Dorado	233,492
Glenn	33,989
Humboldt	430,851
Imperial	249,786
Inyo	18,950
Kings	195,053
Lassen	17,206
Madera	151,434
Marin	576,233
Mariposa	5,649
Modoc	9,688
Mono	53,168
Napa	142,767
Nevada	42,051
Plumas	23,796
San Benito	37,018
Shasta	294,369
Sierra	6,183
Siskiyou	48,956
Solano	809,548
Sonoma	718,947
Sutter	188,781
Tehama	79,950
Trinity	8,319
Tuolumne	34,947
Yuba	101,907

(b) Beginning in the 1991–92 fiscal year and in each fiscal year thereafter, counties which did not contract with the department pursuant to Section 16709 during the 1990–91 fiscal year shall pay the following amount to the department as a condition of participation in the County Medical Services Program, administered pursuant to Section 16809:

Jurisdiction	Amount
Lake	$150,278
Mendocino	247,578
Merced	488,954
Placer	247,193
San Luis Obispo	358,571
Santa Cruz	678,868
Yolo	532,510

(c) County amounts specified in subdivisions (a) and (b) shall be paid to the department in 12 equal monthly payments according to the procedures specified by the department. A county which does not pay the amounts specified in subdivision (a) or (b) may be terminated from participation in the program.

(d) The payments required by subdivision (c) shall not be paid for with funds from the health account of the local health and welfare trust fund established pursuant to Section 17600.10.

(e) The department shall reduce the amounts specified in subdivision (b) if the revenue authority provided for in either Section 29550 of the Government Code, or Section 97 of the Revenue and Taxation Code, or both, which is effective on or after September 1, 1991, is reduced by enactment of legislation or by judicial order, unless those county general purpose revenues are replaced in the 1991–92 fiscal year and subsequent fiscal years by county general purpose revenue authority which, when added to the remaining revenue authority, will be equal to the revenue authority made available to the counties during the 1991–92 fiscal year.

SEC. 83. Section 16812 of the Welfare and Institutions Code is amended to read:

16812. The State Department of Health Services, in consultation with the local jurisdictions, shall adopt any regulations necessary to implement this part. The department may adopt these regulations on an emergency basis pursuant to Chapter 4.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. The adoption of those regulations shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health, or safety. Notwithstanding Chapter 4.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, emergency regulations adopted by the department in order to implement this part shall not be subject to the review and approval of the Office of Administrative Law. These regulations shall become effective immediately upon filing with the

Secretary of State.

SEC. 84. Section 16817 of the Welfare and Institutions Code is amended to read:

16817. Notwithstanding any other provision of law, a county may enter into contracts with selected providers to provide health care services in expending funds provided pursuant to this part and Part 5 (commencing with Section 17000). The county may negotiate such reimbursement or payment arrangements it desires in such contracts. A county shall not be obligated to pay for health care services unless pursuant to a contract or the county has specifically authorized such services and agreed to payment. All such contracts shall be available for review by the department. A county may require county residents specified in this part and Part 5 to use county facilities or county selected providers. This section may not be construed to limit a county's existing obligations to furnish health care. Any county may also elect to act jointly on a regional basis with other counties in assuming the program responsibilities.

SEC. 86. Section 17600 of the Welfare and Institutions Code is amended to read:

17600. (a) There is hereby created the Local Revenue Fund which shall have all of the following accounts:

(1) The Sales Tax Account.

(2) The Vehicle License Fee Account.

(3) The Sales Tax Growth Account.

(4) The Vehicle License Fee Growth Account.

(b) The Sales Tax Account shall have all of the following subaccounts:

(1) The Mental Health Subaccount.

(2) The Social Services Subaccount.

(3) The Health Subaccount.

(c) The Sales Tax Growth Account shall have all of the following subaccounts:

(1) The Caseload Subaccount.

(2) The Indigent Health Subaccount.

(3) The Community Health Subaccount.

(4) The Mental Health Subaccount.

(5) The State Hospital Mental Health Subaccount.

(6) The County Medical Services Subaccount.

(7) The General Growth Subaccount.

(d) Notwithstanding Section 13340 of the Government Code, the Local Revenue Fund is continuously appropriated, without regard to fiscal years, for the purpose of this chapter.

(e) The Local Revenue Fund shall be invested in the Surplus Money Investment Fund and all interest earned shall be distributed in January and July for the programs of the accounts and subaccounts.

SEC. 87. Section 17600.15 of the Welfare and Institutions Code is amended to read:

17600.15. (a) Of the sales tax proceeds from revenues collected

in the 1991–92 fiscal year which are deposited to the credit of the Sales Tax Account of the Local Revenue Fund, 51.91 percent shall be credited to the Mental Health Subaccount, 36.17 percent shall be credited to the Social Services Subaccount, and 11.92 percent shall be credited to the Health Subaccount.

(b) For the 1992–93 fiscal year and fiscal years thereafter, the Controller shall make monthly allocations from the amounts deposited in the Sales Tax Account of the Local Revenue Fund in amounts equal to those distributed for the 1991–92 fiscal year. Any excess sales tax revenues received pursuant to Sections 6201.2 and 6051.2 of the Revenue and Taxation Code shall be deposited in the Sales Tax Growth Account of the Local Revenue Fund.

SEC. 88. Section 17600.20 of the Welfare and Institutions Code is amended to read:

17600.20. (a) Any county or city may reallocate money among accounts in the local health and welfare fund, not to exceed 10 percent of the amount deposited in the account from which the funds are reallocated for that fiscal year.

(b) Notwithstanding subdivision (a), a county may reallocate up to 20 percent of the money from the health account to the social services account in the 1992–93 fiscal year and fiscal years thereafter, for net caseload increases in excess of revenue growth in the social services account. Prior to reallocation of funds in excess of 10 percent from the health account, the county shall deposit the revenue growth for any sales tax account for the fiscal year in the social services account.

(c) (1) A county or city shall, at a regularly scheduled public hearing of its governing body, document that any decision to make any substantial change in its allocation of mental health, social services, or health trust fund moneys among services, facilities, programs, or providers as a result of reallocating funds pursuant to subdivision (a) or (b) was based on the most cost-effective use of available resources to maximize client outcomes.

(2) Any county that reallocates funds pursuant to subdivision (b) shall document, at a regularly scheduled public hearing of the board of supervisors, that the net social services caseload has increased beyond the revenue growth in the social services account.

SEC. 90. Section 17601 of the Welfare and Institutions Code is amended to read:

17601. On or before the 27th day of each month, the Controller shall allocate to the mental health account of each local health and welfare trust fund the amounts deposited and remaining unexpended and unreserved on the 15th day of the month in the Mental Health Subaccount of the Sales Tax Account in the Local Revenue Fund in accordance with the following schedules:

(a) (1) Schedule A—State Hospital and Community Mental Health Allocations.

Jurisdiction	Allocation Percentage
Alameda	4.882
Alpine	0.018
Amador	0.070
Butte	0.548
Calaveras	0.082
Colusa	0.073
Contra Costa	2.216
Del Norte	0.088
El Dorado	0.285
Fresno	2.045
Glenn	0.080
Humboldt	0.465
Imperial	0.342
Inyo	0.104
Kern	1.551
Kings	0.293
Lake	0.167
Lassen	0.087
Los Angeles	28.968
Madera	0.231
Marin	0.940
Mariposa	0.054
Mendocino	0.332
Merced	0.546
Modoc	0.048
Mono	0.042
Monterey	0.950
Napa	0.495
Nevada	0.191
Orange	4.868
Placer	0.391
Plumas	0.068
Riverside	2.394
Sacramento	3.069
San Benito	0.090
San Bernardino	3.193
San Diego	5.603
San Francisco	4.621
San Joaquin	1.655
San Luis Obispo	0.499
San Mateo	2.262
Santa Barbara	0.949
Santa Clara	4.112
Santa Cruz	0.558
Shasta	0.464

Sierra	0.026
Siskiyou	0.137
Solano	1.027
Sonoma	1.068
Stanislaus	1.034
Sutter/Yuba	0.420
Tehama	0.181
Trinity	0.055
Tulare	0.941
Tuolumne	0.121
Ventura	1.472
Yolo	0.470
Berkeley	0.190
Tri-City	0.165

The amounts allocated in accordance with Schedule A for the 1991–92 fiscal year shall be considered the base allocations for the 1992–93 fiscal year.

(2) The funds allocated pursuant to Schedule B shall be increased to reflect the addition of percentages for the Institute for Mental Disease allocation pursuant to paragraph (1) of subdivision (c).

(3) The Controller shall allocate three million seven hundred thousand dollars ($3,700,000) to the counties pursuant to a percentage schedule developed by the Director of Mental Health as specified in subdivision (c) of Section 4095. The funds allocated pursuant to Schedule A shall be increased to reflect the addition of this schedule.

(b) (1) Schedule B—State Hospital Payment Schedule.

From the amounts allocated in accordance with Schedule A, each county and city shall reimburse the Controller for reimbursement to the State Department of Mental Health . For the 1991–92 fiscal year only, an amount equal to one-ninth of the amount identified in Schedule B as modified to reflect adjustments pursuant to paragraph (2) of subdivision (a) of Section 4330. The reimbursements shall be due the 24th day of each month and the first payment shall be due on October 24, 1991. During the 1992–93 fiscal year and fiscal years thereafter, each monthly reimbursement shall be one-twelfth of the total amount of the county's contract with the department for state hospital services.

Jurisdiction	First Year State Hospital Withholding
Alameda	$ 15,636,372
Berkeley City	0
Alpine	95,379
Amador	148,915
Butte	650,238
Calaveras	100,316

Colusa	189,718
Contra Costa	8,893,339
Del Norte	94,859
El Dorado	236,757
Fresno	1,429,379
Glenn	51,977
Humboldt	727,684
Imperial	259,887
Inyo	363,842
Kern	4,024,613
Kings	266,904
Lake	292,373
Lassen	167,367
Los Angeles	102,458,700
Tri-City	0
Madera	131,243
Marin	3,248,590
Mariposa	117,989
Mendocino	471,955
Merced	404,125
Modoc	94,859
Mono	94,859
Monterey	2,079,097
Napa	2,338,985
Nevada	493,786
Orange	14,066,133
Placer	847,232
Plumas	130,463
Riverside	4,891,077
Sacramento	4,547,506
San Benito	259,887
San Bernardino	5,587,574
San Diego	6,734,976
San Francisco	23,615,688
San Joaquin	927,018
San Luis Obispo	719,887
San Mateo	6,497,179
Santa Barbara	2,168,758
Santa Clara	7,106,095
Santa Cruz	1,403,391
Shasta	1,169,492
Sierra	94,859
Siskiyou	129,944
Solano	5,332,885
Sonoma	2,669,041
Stanislaus	1,740,205
Sutter/Yuba	363,842
Tehama	363,842
Trinity	94,859

Tulare	675,707
Tuolumne	304,328
Ventura	3,378,533
Yolo	1,169,492

(2) (A) (i) During the 1992–93 fiscal year, in lieu of making the reimbursement required by paragraph (1), a county may elect to authorize the Controller to reimburse the State Hospital Account of the Mental Health Facilities Fund a pro rata share each month computed by multiplying the ratio of the reimbursement amount owed by the county as specified in Schedule B to the total amount of money projected to be allocated to the county pursuant to Schedule A by the funds available for deposit in the mental health account of the county's health and welfare trust fund.

(ii) The reimbursement shall be made monthly on the same day the Controller allocates funds to the local health and welfare trust funds.

(B) During the 1991–92 fiscal year and thereafter, the amount to be reimbursed each month shall be computed by multiplying the ratio of the county's contract for state hospital services to the amount of money projected to be allocated to the county pursuant to Schedule A by the funds available for deposit in the mental health account of the county's health and welfare trust fund.

(C) All reimbursements, deposits, and transfers made to the Mental Health Facilities Fund pursuant to a county election shall be deemed to be deposits to the local health and welfare trust fund.

(3) (A) Counties shall notify the Controller, in writing, by October 15, 1991, upon making the election pursuant to paragraph (2). The election shall be binding for the fiscal year. The pro rata share of allocations made prior to the election by the county shall be withheld from allocations in subsequent months until paid.

(B) For the 1992–93 fiscal year and fiscal years thereafter, counties shall notify the Controller, in writing, by July 1 of the fiscal year for which the election is made, upon making the election pursuant to paragraph (2).

(4) Regardless of the reimbursement option elected by a county, no county shall be required to reimburse the Mental Health Facilities Fund by an amount greater than the amount identified in Schedule B as modified to reflect adjustments pursuant to paragraph (2) of subdivision (a) of Section 4330.

(c) (1) For the 1991–92 fiscal year, the Controller shall, commencing October 1, 1991, distribute monthly beginning in October from the Mental Health Subaccount of the Sales Tax Account of the Local Revenue Fund to the mental health account of each local health and welfare trust fund one-ninth of the amount allocated to the county in accordance with the institutions for mental disease allocation schedule established by the State Department of Mental Health.

(2) Each county shall forward to the Controller, monthly, an

amount equal to one-ninth of the amount identified in the schedule established by the State Department of Mental Health. The reimbursements shall be due by the 24th day of the month to which they apply, and the first payment shall be due October 24, 1991. These amounts shall be deposited in the Institutions for Mental Disease Account in the Mental Health Facilities Fund.

(3) (A) (i) During the 1991–92 fiscal year, in lieu of making the reimbursement required by paragraph (1), a county may elect to authorize the Controller to reimburse the Mental Health Diseases Account of the Mental Health Facilities Fund a pro rata share of each month computed by multiplying the ratio of the reimbursement amount owed by the county as specified in Schedule B to the total amount of money projected to be allocated to the county pursuant to Schedule A by the funds available for deposit in the mental health account of the county's health and welfare trust fund.

(ii) The reimbursement shall be made monthly on the same day the Controller allocates funds to the local health and welfare trust funds.

(B) During the 1992–93 fiscal year and thereafter, the amount to be reimbursed each month shall be computed by multiplying the ratio of the county's contract for mental health services to the amount of money projected to be allocated to the county pursuant to Schedule A by the funds available for deposit in the mental health account of the county's health and welfare trust fund.

(C) All reimbursements, deposits, and transfers made to the Mental Health Facilities Fund pursuant to a county election shall be deemed to be deposits to the local health and welfare trust fund.

(4) (A) Counties shall notify the Controller, in writing, by October 15, 1991, upon making the election pursuant to paragraph (3). The election shall be binding for the fiscal year. The pro rata share of allocations made prior to the election by the county shall be withheld from allocations in subsequent months until paid.

(B) For the 1992–93 fiscal year and fiscal years thereafter, counties shall notify the Controller, in writing, by July 1 of the fiscal year for which the election is made, upon making the election pursuant to paragraph (2).

(5) Regardless of the reimbursement option elected by a county, no county shall be required to reimburse the Institution for Mental Diseases Account in the Mental Health Facilities Fund an amount greater than the amount identified in the schedule developed by the State Department of Mental Health pursuant to paragraph (1).

(d) The Controller shall withhold the allocation of funds pursuant to subdivision (a) in any month a county does not meet the requirements of paragraph (1) of subdivision (b) or paragraph (2) of subdivision (c), in the amount of the obligation and transfer the funds withheld to the State Department of Mental Health for deposit in the State Hospital Account or the Institutions for Mental Disease Account in the Mental Health Facilities Fund, as appropriate.

SEC. 91. Section 17601.10 is added to the Welfare and Institutions

Code, to read:

17601.10. (a) The State Department of Mental Health may request a loan from the General Fund in an amount that shall not exceed one hundred million dollars ($100,000,000) for the purposes of meeting cash-flow needs in its state hospital operations due to delays in the receipt of reimbursements from counties.

(b) The Controller shall liquidate any loan, in accordance with Section 16314 of the Government Code, from the next available deposits into the State Hospital Account in the Mental Health Facilities Fund.

(c) If a loan remains outstanding at the end of any fiscal year, the Controller shall liquidate the balance from the next available deposit into the Mental Health Subaccount in the Sales Tax Account in the Local Revenue Fund.

SEC. 92. Section 17602 of the Welfare and Institutions Code is amended to read:

17602. (a) On or before the 27th day of the month, the Controller shall allocate to counties the amounts deposited and remaining unexpended and unreserved on the 15th day of the month in the Social Services Subaccount of the Sales Tax Account of the Local Revenue Fund, pursuant to schedules developed by the Department of Finance in conjunction with the appropriate state departments based on the estimated 1991–92 expenditures as contained in the Budget Act for programs set forth in subdivision (b), the Controller shall make monthly allocations to counties of the funds deposited into the Social Services Subaccount of the Sales Tax Account of the Local Revenue Fund. These allocations shall be made to the Social Services Account of the local health and welfare trust fund.

The programs to be funded in accordance with the schedule are those set forth in Sections 1794, 1904, 10101, 10101.1, 11322, 11322.2, 12306, 15200, 15204.2, and 18906.5 of this code, and Section 265 of the Health and Safety Code and the program set forth in Section 1806, as funded in the Governor's proposed budget. The schedule for the 1991–92 fiscal year shall be considered final on October 1, 1991.

(b) (1) For the 1991–92 fiscal year and every fiscal year thereafter, the Controller shall allocate an amount from the Social Services Subaccount to counties that equals the amount those counties receive pursuant to Sections 16265 to 16265.7, inclusive, of the Government Code in the 1990–91 fiscal year.

(2) Notwithstanding any other provision of this chapter, counties may use these funds as authorized by Section 16265.7 of the Government Code.

(c) (1) Pursuant to schedules developed by the Department of Finance, in conjunction with the Department of the Youth Authority, based on the estimated 1991–92 fiscal year expenditures as contained in the 1991–92 proposed Governor's Budget for programs impacted by the realignment and contained in the allocations to counties of the funds deposited into the Social Services Subaccount

of the Sales Tax Account in the Local Revenue Fund. The programs set forth in Sections 894, 1794, and 1904 shall be funded in accordance with the schedules adopted pursuant to this subdivision.

(2) (A) Counties that receive allocations pursuant to Article 24.5 (commencing with Section 894) of Chapter 2 of Division 2, Article 5.5 (commencing with Section 1790) of Chapter 1 of Division 2.5 and Article 10 (commencing with Section 1900) of Chapter 1 of Division 2.5 shall receive the same allocation for the 1991–92 fiscal year that they received for the 1990–91 fiscal year.

(B) (i) Of the amount allocated to San Bernardino County under this section for the 1991–92 fiscal year, five hundred thousand dollars ($500,000) shall be designated for the Regional Youth Education Center.

(ii) Of the amount allocated to Los Angeles County under this section for the 1991–92 fiscal year, four hundred eighty-nine thousand four hundred eighty-six dollars ($489,486) shall be designated for the Sugar Ray Robinson Youth Foundation, and one hundred forty thousand eight hundred dollars ($140,800) shall be allocated for the John Rossi Youth Foundation, Inc.

(C) Funding allocated to counties under this section for the 1991–92 fiscal year for programs set forth in Article 2 (commencing with Section 1900) of Chapter 1 of Division 2.5 shall be allocated to previously funded youth services bureaus at the 1990–91 fiscal year level.

(d) Subject to the availability of funds from the 1990–91 fiscal year, the Counties of Butte, Colusa, El Dorado, Humboldt, Lake, Madera, Nevada, Placer, Riverside, Santa Cruz, and Yuba may be reimbursed for underallocated Child Welfare Services' Program costs from unused Child Welfare Services' Program funds to reflect Public Employees' Retirement System contributions credits in the 1991–92 fiscal year.

SEC. 93. Section 17602.05 of the Welfare and Institutions Code is amended and renumbered to read:

17601.05. (a) There is hereby created the Mental Health Facilities Fund, which shall have the following accounts:

(1) The State Hospital Account.

(2) The Institutions for Mental Disease Account.

(b) Funds deposited in the State Hospital Account are continuously appropriated, notwithstanding Section 13340 of the Government Code, without regard to fiscal years, for disbursement monthly to the State Department of Mental Health for costs incurred pursuant to Chapter 4 (commencing with Section 4330) of Part 2 of Division 4.

(c) Funds deposited in the Institutions for Mental Disease Account of the Mental Health Facilities Fund are continuously appropriated, notwithstanding Section 13340 of the Government Code, without regard to fiscal years, for disbursement monthly to the State Department of Mental Health for costs incurred pursuant to Part 5 (commencing with Section 5900) of Division 4.

SEC. 94. Section 17603 of the Welfare and Institutions Code is amended to read:

17603. On or before the 27th day of the month, the Controller shall allocate to the local health and welfare trust fund health accounts the amounts deposited and remaining unexpended and unreserved on the 15th day of the month in the Health Subaccount of the Sales Tax Account of the Local Revenue Fund, in accordance with the following schedule:

Jurisdiction	Allocation Percentage
Alameda	4.5046
Alpine	0.0137
Amador	0.1512
Butte	0.8131
Calaveras	0.1367
Colusa	0.1195
Contra Costa	2.2386
Del Norte	0.1340
El Dorado	0.5228
Fresno	2.3531
Glenn	0.1391
Humboldt	0.8929
Imperial	0.8237
Inyo	0.1869
Kern	1.6362
Kings	0.4084
Lake	0.1752
Lassen	0.1525
Los Angeles	37.2607
Madera	0.3656
Marin	1.0785
Mariposa	0.0815
Mendocino	0.2586
Merced	0.4094
Modoc	0.0923
Mono	0.1342
Monterey	0.8975
Napa	0.4466
Nevada	0.2734
Orange	5.4304
Placer	0.2806
Plumas	0.1145
Riverside	2.7867
Sacramento	2.7497
San Benito	0.1701
San Bernardino	2.4709
San Diego	4.7771
San Francisco	7.1450

San Joaquin	1.0810
San Luis Obispo	0.4811
San Mateo	1.5937
Santa Barbara	0.9418
Santa Clara	3.6238
Santa Cruz	0.6714
Shasta	0.6732
Sierra	0.0340
Siskiyou	0.2246
Solano	0.9377
Sonoma	1.6687.
Stanislaus	1.0509
Sutter	0.4460
Tehama	0.2986
Trinity	0.1388
Tulare	0.7485
Tuolumne	0.2357
Ventura	1.3658
Yolo	0.3522
Yuba	0.3076
Berkeley	0.0692
Long Beach	0.2918
Pasadena	0.1385

SEC. 95. Section 17603.05 of the Welfare and Institutions Code is amended to read:

17603.05. (a) Upon request of a county, the Controller may deposit all or a portion of the county's allocation under this article into the County Medical Services Program Account of the County Health Services Fund.

(b) Any deposit or transfer the Controller makes to the County Medical Services Program Account shall be deemed to be a deposit to the local health and welfare fund.

SEC. 96. Section 17604 of the Welfare and Institutions Code is amended to read:

17604. (a) On or before the 27th day of the month, the Controller shall allocate the amounts deposited and remaining unexpended and unreserved on the 15th day of the month in the Vehicle License Fee Account of the Local Revenue Fund, in accordance with the following schedule:

Jurisdiction	Allocation Percentage
Alameda	4.5046
Alpine	0.0137
Amador	0.1512
Butte	0.8131
Calaveras	0.1367
Colusa	0.1195

Contra Costa	2.2386
Del Norte	0.1340
El Dorado	0.5228
Fresno	2.3531
Glenn	0.1391
Humboldt	0.8929
Imperial	0.8237
Inyo	0.1869
Kern	1.6362
Kings	0.4084
Lake	0.1752
Lassen	0.1525
Los Angeles	37.2607
Madera	0.3656
Marin	1.0785
Mariposa	0.0815
Mendocino	0.2586
Merced	0.4094
Modoc	0.0923
Mono	0.1342
Monterey	0.8975
Napa	0.4466
Nevada	0.2734
Orange	5.4304
Placer	0.2806
Plumas	0.1145
Riverside	2.7867
Sacramento	2.7497
San Benito	0.1701
San Bernardino	2.4709
San Diego	4.7771
San Francisco	7.1450
San Joaquin	1.0810
San Luis Obispo	0.4811
San Mateo	1.5937
Santa Barbara	0.9418
Santa Clara	3.6238
Santa Cruz	0.6714
Shasta	0.6732
Sierra	0.0340
Siskiyou	0.2246
Solano	0.9377
Sonoma	1.6687
Stanislaus	1.0509
Sutter	0.4460
Tehama	0.2986
Trinity	0.1388
Tulare	0.7485
Tuolumne	0.2357

Ventura	1.3658
Yolo	0.3522
Yuba	0.3076
Berkeley	0.0692
Long Beach	0.2918
Pasadena	0.1385

(b) For the 1992–93 fiscal year and fiscal years thereafter, the Controller shall make monthly allocations from the amounts deposited in the Vehicle License Fee Account of the Local Revenue Fund in amounts equal to those distributed in the 1991–92 fiscal year. Any excess vehicle license fee revenues received pursuant to Section 11001.5 of the Revenue and Taxation Code shall be deposited in the Vehicle License Fee Growth Account of the Local Revenue Fund.

SEC. 97. Section 17604.05 is added to the Welfare and Institutions Code, to read:

17604.05. (a) Upon request of a county, the Controller may deposit all or any portion of the county's allocation under this article into the County Medical Services Program Account of the County Health Services Fund.

(b) Deposits made pursuant to subdivision (a) shall be deemed to be deposits into a county's or city's local health and welfare trust fund pursuant to Section 17608.10.

SEC. 98. Section 17605 of the Welfare and Institutions Code is amended to read:

17605. (a) For the 1992–93 fiscal year, the Controller shall deposit thirty-two million two hundred ninety-one thousand dollars ($32,291,000) of those revenues deposited in the Sales Tax Growth Account of the Local Revenue Fund.

(b) For fiscal years subsequent to the 1992–93 fiscal year, the Controller shall deposit 30 percent of the revenues deposited in the Sales Tax Growth Account into the Caseload Subaccount.

SEC. 99. Section 17605.15 of the Welfare and Institutions Code is amended to read:

17605.15. (a) For the 1992–93 fiscal year, the Controller shall deposit not more than fifty-two million one hundred eighty-eight thousand dollars ($52,188,000) of those revenues deposited in the General Growth Subaccount of the Sales Tax Growth Account in the Local Revenue Fund, for allocation to each county's health and welfare trust fund. In succeeding fiscal years, the amount to be deposited by the Controller shall be equal to the amount deposited to this subaccount in the prior fiscal year adjusted for estimated growth for the current fiscal year as determined by the Department of Finance.

(b) (1) The Controller shall transfer an amount equal to the growth of revenues in excess of the funds for the 1991–92 fiscal year provided pursuant to Section 16809 to counties to fund growth in the County Medical Services Program.

(2) The rate of growth for the County Medical Services Program

shall be proportionate to the rate of growth in revenues from the 1991–92 base of fifty-two million one hundred eighty-eight thousand dollars ($52,188,000).

SEC. 100. Section 17606 of the Welfare and Institutions Code is amended to read:

17606. (a) For the 1992–93 fiscal year and each succeeding fiscal year, the Controller shall allocate to the counties for deposit into the social services accounts of the local health and welfare trust funds, on a monthly basis, those funds deposited in the Caseload Subaccount in the Sales Tax Growth Account. The Controller's allocations shall be based on a schedule adopted annually by the Department of Finance, in conjunction with the appropriate departments. To the extent funds are available, the schedule shall reflect a continuation of the level of funding from the prior fiscal year plus a distribution of any other available funds on the basis of caseload growth from the prior year pursuant to Section 12306, subdivisions (a), (b), (c), and (d) of Section 15200, and Section 10101, and subdivision (b) of Section 265 of the Health and Safety Code.

(b) Prior to allocating funds pursuant to subdivision (a), the Controller shall allocate money from funds deposited in the Caseload Subaccount in the Sales Tax Growth Account in the 1992–93 fiscal year, to counties to correct any inequity or inequities in the computation of the child welfare services portion of the schedule required by subdivision (a) of Section 17602.

(c) (1) The Department of Finance shall submit, to the Controller, by January 15, 1992, a schedule specifying the amount of the allocations described in subdivision (b).

(2) The schedule required by paragraph (1) shall include, but need not be limited to, adjustments resulting from retirement system credits and other anomalies in costs that occurred in the 1989–90 fiscal year.

(d) Funds which exceed the requirements of subdivisions (a) and (b) shall revert pursuant to subdivision (a) of Section 17606.10.

SEC. 101. Section 17606.05 of the Welfare and Institutions Code is amended to read:

17606.05. (a) For the 1992–93 fiscal year, the Controller shall allocate, to those counties which are below statewide average, those funds deposited in the Indigent Health Subaccount, the Community Health Subaccount, the Mental Health Subaccount, and the State Hospital Mental Health Subaccount in accordance with the following tables and schedules:

(1) The Controller shall make monthly allocations from the amounts deposited in the Indigent Health Subaccount to the health account county health and welfare trust fund in accordance with the following schedule:

County	Allocation Percentage
Alameda	9.377
Contra Costa	4.939
Fresno	6.964
Kern	4.362
Merced	1.889
Monterey	2.143
Placer	.959
Riverside	7.059
Sacramento	8.907
San Bernardino	10.804
San Diego	15.927
San Joaquin	4.855
San Luis Obispo	1.200
San Mateo	3.159
Santa Barbara	3.159
Santa Clara	3.159
Stanislaus	3.249
Tulare	3.262
Ventura	3.592
Yolo	1.038

(2) The Controller shall make monthly allocations from the amounts deposited in the Community Health Subaccount to the health account in the county health and welfare trust fund in accordance with the following schedule:

County	Allocation Percentage
Butte	1.11
Calaveras	.13
Del Norte	.18
El Dorado	.54
Fresno	7.20
Glenn	.12
Humboldt	.71
Imperial	.72
Kern	4.81
Kings	.62
Lake	.35
Lassen	.15
Madera	.43
Marin	.84
Mariposa	.07
Mendocino	.54
Merced	1.53
Modoc	.05

Napa	.50
Nevada	.40
Placer	.63
Plumas	.12
Riverside	7.66
Sacramento	8.01
San Benito	.15
San Bernardino	11.76
San Diego	17.07
San Joaquin	3.91
San Luis Obispo	1.09
Santa Clara	13.88
Shasta	1.09
Sierra	.02
Siskiyou	.25
Solano	1.25
Sonoma	1.83
Stanislaus	2.90
Sutter	.67
Tehama	.29
Tulare	2.03
Tuolumne	.22
Ventura	3.34
Yolo	.84

(3) The Controller shall make monthly allocations from the amounts deposited in the State Hospital Mental Health Subaccount to the mental health account in the county health and welfare fund in accordance with the following schedule:

County	Allocation Percentage
Amador	.055
Butte	1.957
Calaveras	.256
Del Norte	.291
El Dorado	1.011
Fresno	10.815
Glenn	.277
Humboldt	.747
Imperial	1.682
Kern	1.726
Kings	1.153
Lake	.470
Lassen	.150
Madera	1.192
Mariposa	.006
Mendocino	.478
Merced	2.924

Modoc	.007
Monterey	.684
Nevada	.021
Placer	.450
Plumas	.068
Riverside	5.538
Sacramento	9.423
San Benito	.010
San Bernardino	11.445
San Diego	19.331
San Joaquin	7.682
San Luis Obispo	1.119
Santa Barbara	.341
Santa Clara	5.264
Santa Cruz	.271
Shasta	.708
Siskiyou	.529
Stanislaus	3.309
Sutter	1.702
Tehama	.194
Trinity	.054
Tulare	5.074
Tuolumne	.104
Ventura	1.377
Yolo	.105

(4) The Controller shall make monthly allocations from the amounts deposited in the Mental Health Subaccount to the mental health account in the county health and welfare fund in accordance with the following schedule:

County	Allocation Percentage
Butte	.379
Contra Costa	6.066
Fresno	7.113
Imperial	.711
Kern	5.387
Lake	.490
Lassen	.045
Los Angeles	28.142
Madera	.335
Merced	1.955
Napa	.046
Orange	2.794
Riverside	6.448
Sacramento	3.710
San Benito	.231
San Bernardino	19.414

Santa Cruz	2.171
Shasta	1.909
Solano	5.117
Stanislaus	3.717
Tulare	3.604
Tuolumne	.217

(b) (1) For the 1993–94 fiscal year and succeeding years, the Controller shall allocate, on a monthly basis, to the appropriate health and welfare trust fund account of the counties those funds deposited in the Indigent Health Subaccount, the Community Health Subaccount, the Mental Health Subaccount, and the State Hospital Mental Health Subaccount in the Growth Account in accordance with a schedule prepared by the appropriate state department.

(2) Eligible counties shall receive from each subaccount an allocation which equals the amount by which their share of poverty population, as determined under subdivision (c) of Section 5701, exceeds the amount received in the prior fiscal year as annually adjusted by the appropriate state department to reflect changes in equity status from the base percentages of these programs as follows:

(A) State funding under Part 4.5 (commencing with Section 16700).

(B) Funding provided for purposes of implementation of Division 5 (commencing with Section 5000) for the organization and financing of community mental health services.

(C) State hospital funding.

(3) The state departments administering the programs for which the funds are allocated shall annually consult with county representatives prior to submitting any schedule of allocations to the Controller.

SEC. 102. Section 17606.10 of the Welfare and Institutions Code is amended to read:

17606.10. (a) For the 1992–93 fiscal year, the Controller shall allocate funds, on a monthly basis, not to exceed fifty-two million one hundred eighty-eight thousand dollars ($52,188,000) from the General Growth Subaccount in the Sales Tax Growth Account to the appropriate accounts in the local health and welfare trust fund of each county, city, and city and county in accordance with a schedule setting forth the percentage of total state resources received prior to the effective date of this section from state funding under Part 4.5 (commencing with Section 16700), funding provided for purposes of implementation of Division 5 (commencing with Section 5000), for the organization and financing of community mental health services, including the Cigarette and Tobacco Products Surtax proceeds which are allocated to county mental health programs pursuant to Chapter 1331 of the Statutes of 1989, Chapter 51 of the Statutes of 1990, and Chapter 1323 of the Statutes of 1990, and state hospital funding, as annually adjusted by the appropriate state department to

reflect changes in equity status from the base percentages. However, for the 1992–93 fiscal year, the allocation for community mental health services shall be based on the following schedule:

Jurisdiction	Percentage of Statewide Resource Base
Alameda	4.3693
Alpine	0.0128
Amador	0.0941
Butte	0.7797
Calaveras	0.1157
Colusa	0.0847
Contra Costa	2.3115
Del Norte	0.1237
El Dorado	0.3966
Fresno	3.1419
Glenn	0.1304
Humboldt	0.6175
Imperial	0.5425
Inyo	0.1217
Kern	1.8574
Kings	0.4229
Lake	0.2362
Lassen	0.1183
Los Angeles	27.9666
Madera	0.3552
Marin	0.9180
Mariposa	0.0792
Mendocino	0.4099
Merced	0.8831
Modoc	0.0561
Mono	0.0511
Monterey	1.1663
Napa	0.3856
Nevada	0.2129
Orange	5.3423
Placer	0.5034
Plumas	0.1134
Riverside	3.6179
Sacramento	4.1872
San Benito	0.1010
San Bernardino	4.5494
San Diego	7.8773
San Francisco	3.5335
San Joaquin	2.4690
San Luis Obispo	0.6652
San Mateo	2.5169
Santa Barbara	1.0745

Santa Clara	5.0488
Santa Cruz	0.7960
Shasta	0.5493
Sierra	0.0345
Siskiyou	0.2051
Solano	0.6694
Sonoma	1.1486
Stanislaus	1.4701
Sutter/Yuba	0.6294
Tehama	0.2384
Trinity	0.0826
Tulare	1.4704
Tuolumne	0.1666
Ventura	1.9311
Yolo	0.5443
Berkeley	0.2688
Tri-City	0.2347

(b) If, in the 1992–93 fiscal year, the General Growth Subaccount in the Growth Account is not credited with fifty-two million one hundred eighty-eight thousand dollars ($52,188,000), the allocations made pursuant to subdivision (a) shall be reduced on a pro rata basis.

SEC. 103. Section 17606.15 of the Welfare and Institutions Code is amended to read:

17606.15. (a) In addition to any other allocations made pursuant to Section 17606.10, the Controller shall make an allocation from the Growth Account to Orange County, for an equity adjustment, in the 1992–93 fiscal year, a sum of one million nine hundred fifty-seven thousand dollars ($1,957,000) to be incorporated into the base allocation of the local health and welfare trust fund for that county.

(b) In addition to any other allocations made pursuant to this section, the Controller shall annually make an allocation from the Sales Tax Growth Account, to the following counties to be incorporated into their annual base allocations, for an equity adjustment, beginning with the 1992–93 fiscal year and ending with, and including, the 1996–97 fiscal year.

(1) Orange County shall be allocated one million three hundred four thousand seven hundred dollars ($1,304,700).

(2) San Diego County shall be allocated two million six hundred nine thousand four hundred dollars ($2,609,400).

(3) Santa Clara County shall be allocated seven hundred seventeen thousand five hundred eighty-five dollars ($717,585).

(c) If there are not sufficient funds in any fiscal year to make the distribution required by subdivisions (a) and (b), the Controller shall, in the following fiscal year, allocate to those counties that portion of the funds which are not allocated as required.

(d) To the extent that the allocations made pursuant to subdivisions (b) and (c) of this section and Section 17606.20 provide less than four million dollars ($4,000,000) for San Diego County, two

million dollars ($2,000,000) for Orange County, one million one hundred thousand dollars ($1,100,000) for Santa Clara County in any fiscal year, then it is the intent of the Legislature that the shortfall be allocated from the Sales Tax Growth Account in the following fiscal year.

SEC. 104. Section 17606.20 of the Welfare and Institutions Code is amended to read:

17606.20. The Controller shall allocate money to each county general fund from revenues deposited in the Vehicle License Fee Growth Account in the Local Revenue Fund in amounts that are proportional to each county's total allocation from the Sales Tax Growth Account.

SEC. 104.5. Section 17608 of the Welfare and Institutions Code is repealed.

SEC. 105. Section 17608.05 of the Welfare and Institutions Code is amended to read:

17608.05. As a condition of deposit of funds from the Sales Tax Account of the Local Revenue Fund into a county's local health and welfare trust fund mental health account, the county or city shall deposit each month local matching funds in accordance with a schedule developed by the State Department of Mental Health based on county or city standard matching obligations for the 1990–91 fiscal year for mental health programs.

SEC. 106. Section 17608.10 of the Welfare and Institutions Code is amended to read:

17608.10. (a) As a condition of deposit of funds from the Sales Tax Account of the Local Revenue Fund into a county's or city's local health and welfare trust fund account, a county or city shall deposit county or city general purpose revenues into the health account each month one-twelfth of the amounts set forth in the following schedule:

Jurisdiction	Amount
Alameda	$ 20,545,579
Alpine	21,465
Amador	278,460
Butte	724,304
Calaveras	0
Colusa	237,754
Contra Costa	10,114,331
Del Norte	44,324
El Dorado	704,192
Fresno	10,404,113
Glenn	58,501
Humboldt	589,711
Imperial	772,088
Inyo	561,262
Kern	7,623,407
Kings	466,273
Lake	118,222

Lassen	119,938
Los Angeles	159,324,707
Madera	81,788
Marin	1,196,515
Mariposa	0
Mendocino	347,945
Merced	858,484
Modoc	70,462
Mono	409,928
Monterey	3,367,970
Napa	546,957
Nevada	96,375
Orange	15,727,317
Placer	368,490
Plumas	66,295
Riverside	7,365,244
Sacramento	7,128,508
San Benito	0
San Bernardino	4,316,679
San Diego	4,403,290
San Francisco	39,363,076
San Joaquin	2,469,934
San Luis Obispo	1,359,837
San Mateo	6,786,043
Santa Barbara	3,794,166
Santa Clara	13,203,375
Santa Cruz	2,053,729
Shasta	184,049
Sierra	7,330
Siskiyou	287,627
Solano	115,800
Sonoma	438,234
Stanislaus	3,510,803
Sutter	674,240
Tehama	446,992
Trinity	292,662
Tulare	1,547,481
Tuolumne	305,830
Ventura	4,185,070
Yolo	1,081,388
Yuba	187,701
Berkeley	1,953,018
Long Beach	0
Pasadena	0

(b) As an additional condition of deposit of funds from the Sales Tax Account of the Local Revenue Fund into a county's or city's local health and welfare trust fund health account, a county or city shall deposit each month an amount of county or city general purpose

revenues at least equal to the amount of funds transferred by the Controller each month to the county or city pursuant to Article 5 (commencing with Section 17604).

Jurisdiction	Amount
Alameda	$ 34,656,636
Alpine	105,689
Amador	1,163,563
Butte	6,255,285
Calaveras	1,051,335
Colusa	919,473
Contra Costa	17,223,258
Del Norte	1,030,669
El Dorado	4,022,552
Fresno	18,103,775
Glenn	1,070,272
Humboldt	6,869,615
Imperial	6,337,341
Inyo	1,437,978
Kern	12,588,191
Kings	43,142,201
Lake	1,348,206
Lassen	1,173,369
Los Angeles	286,668,941
Madera	2,813,023
Marin	8,297,919
Mariposa	626,654
Mendocino	1,989,338
Merced	3,149,398
Modoc	710,214
Mono	1,032,426
Monterey	6,904,632
Napa	3,436,248
Nevada	2,103,367
Orange	41,779,165
Placer	2,158,841
Plumas	88,551
Riverside	21,439,885
Sacramento	21,155,018
San Benito	1,308,976
San Bernardino	19,010,157
San Diego	36,753,369
San Francisco	59,970,531
San Joaquin	8,316,988
San Luis Obispo	13,701,201
San Mateo	12,260,906
Santa Barbara	7,245,558
Santa Clara	27,880,087
Santa Cruz	5,165,230

Shasta	5,179,199
Sierra	261,539
Siskiyou	1,727,903
Solano	7,214,154
Sonoma	12,837,981
Stanislaus	8,085,530
Sutter	3,430,975
Tehama	2,297,327
Trinity	1,067,986
Tulare	5,758,785
Tuolumne	1,813,758
Ventura	10,507,983
Yolo	2,709,700
Yuba	2,366,632
Berkeley	532,058
Long Beach	2,244,859
Pasadena	1,065,562

SEC. 107. Section 17609 of the Welfare and Institutions Code is amended to read:

17609. Funds deposited into a county's health and welfare trust fund accounts may be expended only for the purposes of providing those mental health, public health, indigent health care, social services, and juvenile justice programs transferred or otherwise financed pursuant to the realignment established under Chapters 89 and 91 of the Statutes of 1991.

SEC. 108. Section 17609.01 is added to the Welfare and Institutions Code, to read:

17609.01. Except as provided in Section 17600.20, funds deposited in the health account may be expended only for public health and indigent health care services.

SEC. 109. Section 17609.05 of the Welfare and Institutions Code is amended to read:

17609.05. Each county shall file with the Controller quarterly and annual reports of trust fund deposits and expenditures within 45 days after the end of the quarter.

(b) The Controller shall verify deposits and notify appropriate state agencies upon request of deficits in deposits. The next scheduled allocations shall not be made until deposits are made accordingly. Reports shall be forwarded to the appropriate state department for expenditure verification.

SEC. 110. Section 17609.10 is added to the Welfare and Institutions Code, to read:

17609.10. The Controller shall charge actual administration costs for the implementation and maintenance of this part and subsequent related legislation to the Local Revenue Fund prior to all allocations. These charges shall be reviewed and approved annually by the Department of Finance.

SEC. 111. Section 18986.21 of the Welfare and Institutions Code,

as added by Senate Bill 786 of the 1991–92 Regular Session of the Legislature, is amended to read:

18986.21. (a) A waiver or waivers may be granted pursuant to this chapter when existing regulations hinder the coordination of children's services and when waivers would facilitate the implementation of this chapter.

(b) Any request for a waiver under this chapter shall contain, at a minimum, all of the following:

(1) The regulation or regulations for which the county requests a waiver.

(2) A statement regarding why the identified regulation or regulations should be waived.

(3) A statement regarding why the identified regulation or regulations inhibit the efficient administration of the program.

(4) A comparison of the following:

(A) The services and the number of persons to be served under the requested waiver.

(B) The services and the number of persons to be served without the requested waiver.

(5) Projected costs or savings due to the requested waiver.

(6) Any impact on state and federal funding.

(c) When approving a county request for a waiver pursuant to this chapter, the entity granting the waiver shall ensure all of the following:

(1) Level of services and eligible persons served under the affected program are maintained.

(2) There is no increase in costs to the state or to clients.

(3) There is no loss of federal financial participation.

SEC. 113. Section 202 of Chapter 89 of the Statutes of 1991 is amended to read:

Sec. 202. (a) (1) No later than November 15, 1991, the Health and Welfare Agency shall establish a task force to review and evaluate existing county reporting and data requirements for mental health, public health, indigent health, and social services. In addition, the task force shall propose a plan to evaluate realignment which shall include the specific data to be collected, the entities that would collect each type of data, and the dates on which data will be provided to the Health and Welfare Agency.

(2) (A) The plan and budget requirements specified in subdivision (b) of Section 16800 of the Welfare and Institutions Code shall be superseded by the recommendations of the task force when implementing legislation is enacted or when the Health and Welfare Agency determines that the recommendations may be implemented under existing statutes.

(B) Recommendations for modifying the county plan and budget requirements specified in subdivision (b) of Section 16800 shall not result in county administrative costs that exceed statewide costs incurred under statutes in effect on the effective date of this section.

(b) The task force shall consist of representatives from the Health

and Welfare Agency, the Department of Finance, the Legislative Analyst's office, appropriate legislative committee staff, county representatives, representatives of public and private sector health workers, private health care providers, medically indigent adults, nonprofit community-based organizations providing mental health, public health, social services, the affected state departments, and other interested groups.

(c) On or before April 1, 1992, the Health and Welfare Agency shall report to the Legislature on recommendations for data and information requirements and shall submit a draft of legislative language necessary to effect the recommendations. This report shall specifically include recommendations on the data to be collected to meet legislative intent as specified in subdivision (f).

(d) The Legislative Analyst shall issue a report summarizing the health service plans submitted by each governing body to the Health and Welfare Agency pursuant to subdivision (b) of Section 16800 of the Welfare and Institutions Code. The Legislative Analyst shall summarize these service plans and provide an independent verification of their accuracy based on site visits to as many counties as possible. A report shall be transmitted to the Joint Legislative Task Force on Realignment by May 15, 1992, April 1, 1993, and April 1, 1994.

(e) The Auditor General and the Legislative Analyst shall prepare and transmit a comprehensive evaluation plan to the Joint Legislative Task Force on Realignment created by this act no later than June 30, 1992. This plan shall include elements contained in the evaluation plan pursuant to subdivision (b) of Section 16800 of the Welfare and Institutions Code, the extent to which the Health and Welfare Agency data and recommendations would allow for an evaluation of the items specified in subdivision (f), costs estimated for conducting the comprehensive evaluation, and a division of labor between the joint committees, and what components would be performed by either the Joint Legislative Task Force on Realignment directly, an independent contractor, the Legislative Analyst, or the Auditor General.

(f) This plan shall cover the resources and data needed to determine the following:

(1) If there has been compliance with each of the realignment provisions pursuant to this act.

(2) If revenues have been sufficient to adequately serve anticipated caseload increases.

(3) The extent to which additional problems of access to care by the indigent and racial and ethnic minorities have developed.

(4) The extent to which local public health, indigent health, and social services planning, funding, and service delivery has been inclusive of public health and social services providers in the local jurisdictions, including nonprofit community-based organizations.

(5) The extent to which interagency collaboration has occurred for the purposes of streamlining intake and assessment processes and

coordinating funding and service delivery.

(6) The extent to which the costs and demand for health care in contract counties and under the County Medical Services Program (CMSP) has increased, and the factors impeding the ability to meet increased needs.

(7) The extent to which health care standards have been maintained and enforcement procedures established by county public health departments.

(8) The extent to which surveillance systems identify communicable and chronic diseases and other causes of death and disability.

(g) Based on its review of the evaluation plan, the Joint Legislative Task Force on Realignment shall develop legislation specifying the resources and activities necessary to provide for an evaluation by April 1, 1994, and annually thereafter until April 1, 1996.

(h) It is the intent of the Legislature that the evaluation shall be based on site visits and analysis of data in the following counties over the three-year period: three counties each with a population of over 2,000,000 persons; three counties each with a population between 1,000,000 and 2,000,000 persons; and three counties each with a population between 500,000 and 1,000,000 persons. The State Department of Health Services shall assist the Joint Legislative Task Force on Realignment, independent contractors, the Legislative Analyst, and the Auditor General in conducting onsite visits. In addition, the department shall conduct a review in five counties designated by the department as being contract counties and nine counties designated CMSP counties and shall submit a report of these reviews to the Legislative Analyst over the three-year period.

(i) In each evaluation, the Joint Legislative Task Force on Realignment, independent contractors, the Legislative Analyst, and the Auditor General shall make a specific determination as to whether implementation has complied with this act and Sections 16990 and 16995 of the Welfare and Institutions Code, and shall include recommendations for such legislation as may be appropriate to deter or remedy any problems identified.

(j) As part of their responsibilities in conducting these evaluations, the Joint Legislative Task Force on Realignment, independent contractors, the Legislative Analyst, and the Auditor General shall consult with providers of public health, indigent health, mental health, and social services at the county level, and impacted communities including, but not limited to, the indigent, racial and ethnic minorities, and rural farmworkers.

SEC. 114. Section 203 of Chapter 89 of the Statutes of 1991 is amended to read:

Sec. 203. Whenever the Legislature proposes statutory or budgetary action which would shift significant social services or health mental health caseload requirements to counties, the office of the Legislative Analyst, as part of its usual reporting process on

mandates, shall separately estimate and identify the local impact of that action.

SEC. 115. The State Department of Mental Health and the State Department of Social Services shall report to the Legislature by January 1, 1993, on the impact of the statutory changes in the funding formula for out-of-home placements, as specified in Sections 10101 and 10101.1 of the Welfare and Institutions Code, as it relates to children placed pursuant to Section 7572.5 of the Government Code.

SEC. 116. The Legislative Analyst shall, as part of its review of the budget of the California Children's Services Program for the 1992–93 fiscal year, report to the appropriate committees of the Legislature on the impact of the statutory changes to the program made pursuant to all of the following:

(a) This act.

(b) Chapter 91 of the Statutes of 1991, as it relates to changes in eligibility and services for children who are not eligible for benefits under the Medi-Cal program to the extent possible with available information.

SEC. 117. Notwithstanding Sections 16703, 16707, 16720, and 16803 of the Welfare and Institutions Code, the balance of any interest earnings in the County Health Services Fund, exclusive of any funds in the County Medical Services Program Account and the County Medical Services Program Reserve Account established pursuant to Section 16809 of the Welfare and Institutions Code, the Rural Health Services Account established pursuant to Section 16930 of the Welfare and Institutions Code, the Local Health Capital Expenditure Account established pursuant to Section 16715 of the Welfare and Institutions Code, and the California Health Care for Indigent Program Account established by Section 16940 of the Welfare and Institutions Code, shall be transferred to the County Medical Services Program Account and is hereby appropriated to pay for health care services provided to persons eligible for services under the County Medical Services Program established pursuant to Section 16809.

SEC. 118. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order for this act to be effective for as much as possible of the 1991–92 fiscal year, and so facilitate the orderly administration of the system of providing vital human services to the people of the state, it is necessary that this act take effect immediately.

CHAPTER 612

An act to amend Section 1277 of the Health and Safety Code, and to amend and renumber Section 5600.2 of the Welfare and Institutions Code, relating to mental health.

[Approved by Governor October 6, 1991. Filed with Secretary of State October 7, 1991.]

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

SECTION 1. Section 1277 of the Health and Safety Code is amended to read:

1277. (a) No license shall be issued by the state department unless it finds that the premises, the management, the bylaws, rules and regulations, the equipment, the staffing, both professional and nonprofessional, and the standards of care and services are adequate and appropriate, and that the health facility is operated in the manner required by this chapter and by the rules and regulations adopted hereunder.

(b) Notwithstanding any provision of Part 2 (commencing with Section 5600) of Division 5 of, or Division 7 (commencing with Section 7100) of, the Welfare and Institutions Code or any other law to the contrary, except Sections 2137.1 and 2137.2 of the Business and Professions Code, the licensure requirements for professional personnel, including, but not limited to, physicians and surgeons, dentists, podiatrists, psychologists, marriage, family, and child counselors, pharmacists, registered nurses, and clinical social workers in the state and other governmental health facilities licensed by the state department shall not be less than for those professional personnel in health facilities under private ownership. Persons employed as psychologists and clinical social workers, while continuing in their employment in the same class as of January 1, 1979, in the same state or other governmental health facility licensed by the state department, including those persons on authorized leave, but not including intermittent personnel, shall be exempt from the requirements of this subdivision. Additionally, the requirements of this subdivision may be waived by the state department solely for persons in the professions of psychology, marriage, family, and child counseling or clinical social work who are gaining qualifying experience for licensure in such profession in this state. A waiver granted pursuant to this subdivision shall not exceed two years from the date the employment commences in this state in the case of psychologists, or four years from commencement of the employment in this state in the case of marriage, family, and child counselors and clinical social workers, at which time licensure shall have been obtained or the employment shall be terminated except that an extension of a waiver of licensure may be granted for one additional year, based on extenuating circumstances determined by

the department pursuant to subdivision (e). For persons employed as psychologists, clinical social workers, or marriage, family and child counselors less than full time, an extension of a waiver of licensure may be granted for additional years proportional to the extent of part-time employment, as long as the person is employed without interruption in service, but in no case shall the waiver of licensure exceed six years in the case of clinical social workers and marriage, family, and child counselors, or five years in the case of psychologists. However, this durational limitation upon waivers shall not apply to active candidates for a doctoral degree in social work, social welfare, or social science, who are enrolled at an accredited university, college, or professional school, but these limitations shall apply following completion of this training. Additionally, this durational limitation upon waivers shall not apply to active candidates for a doctoral degree in marriage, family, and child counseling or marital and family therapy who are enrolled at a school, college, or university, specified in subdivision (a) of Section 4980.40 of the Business and Professions Code, but the limitations shall apply following completion of the training. A waiver pursuant to this subdivision shall be granted only to the extent necessary to qualify for licensure, except that personnel recruited for employment from outside this state and whose experience is sufficient to gain admission to a licensing examination shall nevertheless have one year from the date of their employment in California to become licensed, at which time licensure shall have been obtained or the employment shall be terminated, provided that the employee shall take the licensure examination at the earliest possible date after the date of his or her employment, and if the employee does not pass the examination at that time, he or she shall have a second opportunity to pass the examination, subject to the one-year limit.

(c) A special permit shall be issued by the state department when it finds that the staff, both professional and nonprofessional, and the standards of care and services are adequate and appropriate, and that the special services unit is operated in the manner required in this chapter and by the rules and regulations adopted hereunder.

(d) The state department shall apply the same standards to state and other governmental health facilities that it licenses as it applies to health facilities in private ownership, including standards specifying the level of training and supervision of all unlicensed practitioners. The department may grant an extension of a waiver of licensure for personnel recruited from outside this state for one additional year, based upon extenuating circumstances as determined by the department pursuant to subdivision (e).

(e) The department shall grant a request for an extension of a waiver based on extenuating circumstances, pursuant to subdivision (b), if any of the following circumstances exist:

(1) The person requesting the extension has experienced a recent catastrophic event which may impair the person's ability to qualify for and pass the license examination. Those events may include, but

are not limited to, significant hardship caused by a natural disaster, serious and prolonged illness of the person, serious and prolonged illness or death of a child, spouse, or parent, or other stressful circumstances.

(2) The person requesting the extension has difficulty speaking or writing the English language, or other cultural and ethnic factors exist which substantially impair the person's ability to qualify for and pass the license examination.

(3) The person requesting the extension has experienced other personal hardship which the department, in its discretion, determines to warrant the extension.

SEC. 2. Section 5600.2 of the Welfare and Institutions Code, as amended by Section 2 of Chapter 962 of the Statutes of 1990, is amended and renumbered to read:

5603. (a) Except as provided in this section, persons employed or under contract to provide mental health services pursuant to this part shall be subject to all applicable requirements of law respecting professional licensure, and no person shall be employed in local mental health programs pursuant to this part to provide services for which such a license is required, unless the person possesses a currently valid license.

(b) Persons employed as psychologists and clinical social workers, while continuing in their employment in the same class as of January 1, 1979, in the same program or facility, including those persons on authorized leave, but not including intermittent personnel, shall be exempt from the requirements of subdivision (a). Additionally, the requirements of subdivision (a) may be waived by the department solely for persons in the professions of psychology, clinical social work, or marriage, family and child counseling who are gaining qualifying experience for licensure in the profession.

(c) A waiver granted pursuant to subdivision (b) shall not exceed four years from commencement of employment in the case of full-time clinical social workers, or in the case of marriage, family and child counselors, at which time licensure shall have been obtained or the employment shall be terminated. However, the department may grant an extension of a waiver of licensure for one additional year, based on extenuating circumstances as determined by the department pursuant to subdivision (f). For persons employed as clinical social workers or marriage, family and child counselors less than full time, an extension of a waiver of licensure may be granted for additional years proportional to the extent of part-time employment, as long as the person is employed without interruption in service, but in no case shall the waiver of licensure exceed six years.

(d) A waiver granted pursuant to subdivision (b) shall not exceed two years from commencement of employment in the case of psychologists, at which time licensure shall have been obtained or the employment shall be terminated. For persons employed full time as a psychologist, the department may grant an extension of a waiver

of licensure for an additional year, based upon extenuating circumstances as determined by the department. For persons employed less than full time as a psychologist, the department may grant an extension of a waiver of licensure for additional years proportional to the extent of part-time employment, based upon extenuating circumstances as determined by the department as long as the person is employed without interruption in service, but in no case shall the waiver of licensure exceed five years.

(e) However, the durational limitations upon waivers shall not apply to active candidates for a doctoral degree in social work, social welfare, or social science, who are enrolled at an accredited university, college, or professional school, but these limitations shall apply following completion of this training. Additionally, this durational limitation upon waivers shall not apply to active candidates for a doctoral degree in marriage, family and child counseling or marital and family therapy who are enrolled at a school, college, or university, specified in subdivision (a) of Section 4980.40 of the Business and Professions Code, but the limitations shall apply following completion of the training. A waiver pursuant to this section shall be granted only to the extent necessary to qualify for licensure, except that personnel recruited for employment from outside this state and whose experience is sufficient to gain admission to a licensing examination shall, nevertheless, have two years from the date of their employment in California to become licensed, at which time licensure shall have been obtained or the employment shall be terminated. The department may grant an extension of a waiver of licensure for personnel recruited from outside this state for one additional year, based upon extenuating circumstances as determined by the department pursuant to subdivision (f).

(f) The department shall grant a request for an extension of a waiver based on extenuating circumstances, pursuant to subdivision (c) or (e), if any of the following circumstances exist:

(1) The person requesting the extension has experienced a recent catastrophic event which may impair the person's ability to qualify for and pass the license examination. Those events may include, but are not limited to, significant hardship caused by a natural disaster, serious and prolonged illness of the person, serious and prolonged illness or death of a child, spouse, or parent, or other stressful circumstances.

(2) The person requesting the extension has difficulty speaking or writing the English language, or other cultural and ethnic factors exist which substantially impair the person's ability to qualify for and pass the license examination.

(3) The person requesting the extension has experienced other personal hardship which the department, in its discretion, determines to warrant the extension.

CHAPTER 613

An act to amend Sections 68113, 68543.5, 76103, 76213, and 77200 of the Government Code, to amend Sections 859a, 1306, 1462, and 1464 of the Penal Code, to amend Sections 4760.1, 40611, and 42006 of the Vehicle Code, and to amend Section 75 of Chapter 90 of the Statutes of 1991, relating to criminal law.

[Approved by Governor October 6, 1991. Filed with Secretary of State October 8, 1991]

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

SECTION 1. Section 68113 of the Government Code, as amended by Chapter 189 of the Statutes of 1991, is amended to read:

68113. (a) The superior, municipal, and justice courts in each county shall submit a report to the Judicial Council on progress towards achieving the cost reduction goals associated with the coordination plans and factors impacting the cost of court operations and the collection of revenues. The report shall also include financial information prepared by the county auditor on expenditures for court operations and revenues according to a uniform chart of accounts adopted by the Judicial Council. The first report shall be submitted on or before February 15, 1992, covering the period July 1, 1991, to December 31, 1991, inclusive. Thereafter the reports shall be submitted quarterly on or before the 15th day of the second month following the end of the quarter, except the fourth-quarter report shall be submitted on the 15th day of the third month following the end of the fourth quarter.

(b) For purposes of the reporting requirements of this section, a court or courts in a county may petition the Judicial Council to permit division of the court or courts into smaller administrative units corresponding to the organization of the court or courts under a coordination plan where reporting courtwide would impose an undue burden because of the number of judges or the physical location of the divisions of the court or courts.

(c) The Judicial Council shall submit a report to the Legislature on or before November 1 following the end of each fiscal year setting forth all of the following:

(1) The revenues and expenditures for each superior, municipal, and justice court in the state and statewide totals.

(2) A summary of the savings achieved by each county and statewide.

(3) Factors impacting the cost of court operations and the collection of revenues.

SEC. 2. Section 68543.5 of the Government Code, as amended by Chapter 189 of the Statutes of 1991, is amended to read:

68543.5. (a) Whenever a judge retired as such under the Judges' Retirement Law is assigned to sit in a trial court, the state shall pay

the judge for each day of service in the court in the amount specified in Section 68543.7, without loss or interruption of retirement benefits, unless the judge waives compensation under this section. Whenever a retired judge of a justice court who is not under the Judges' Retirement Law is assigned to sit in a trial court the state shall pay the judge for each day of service in the court in the amount specified in Section 68543.7, or the compensation specified in Section 68541, whichever is greater. The compensation is payable out of any appropriation for extra compensation of judges assigned by the Chairperson of the Judicial Council.

The receiving county shall pay the state at least 50 percent of the salary provided in Section 68543.7 for the time the judge serves the receiving court and may, at its option, agree to pay more than 50 percent. If the county is an option county, as defined in Section 77004, the amount due shall be paid as provided in Section 77205.3.

During the period of assignment, a retired judge shall be allowed expenses for travel, board, and lodging incurred in the discharge of the assignment. When assigned to sit in the county in which he or she resides, the judge shall be allowed expenses for travel, and board incurred in the discharge of the assignment. The expenses for travel, board, and lodging shall be paid by the state under the rules adopted by the Board of Control which are applicable to officers of the state provided for in Article VI of the Constitution while traveling on official state business. The receiving county shall reimburse the state for these expenses. If the county is an option county, as defined in Section 77004, the amount due shall be paid as provided in Section 77205.3.

Notwithstanding the above provisions pertaining to compensation, a retired judge on senior judge status shall receive compensation from the state as provided in Sections 75028 and 75028.2, and shall be allowed expenses for travel, board, and lodging incurred in the discharge of the assignment as provided in this section.

A county receiving a judge on senior judge status shall pay the state 50 percent of the full salary of a judge of the court to which the retired judge is assigned for the time the judge serves the receiving court. If the county is an option county, as defined in Section 77004, the amount due shall be paid as provided in Section 77205.3.

(b) Whenever a judge retired as such under the Judges' Retirement Law is assigned to sit in a court of appeal or the Supreme Court, he or she shall be compensated while so sitting at a rate equal to 92 percent of the full compensation of a judge of the court to which he or she is assigned unless the judge waives compensation under this section. A retired judge of a justice court who is not under the Judges' Retirement Law and who is assigned to sit in a court of appeal or the Supreme Court shall be compensated while so sitting at the full compensation of a judge of the court to which he or she is assigned, or the compensation specified in Section 68541, whichever is greater. The compensation shall be chargeable for the period specified in Section 68547 the same as provided by law with respect to the

compensation of a judge of the court to which he or she is assigned and the compensation is payable out of any appropriation for extra compensation of judges assigned by the Chairperson of the Judicial Council.

If the compensation is greater than the judge's retirement allowance, the state shall pay the judge the difference between the compensation and the retirement allowance. The state shall reimburse the Judges' Retirement Fund for the retirement allowance paid to the judge while sitting on assignment, except that if no allowance has been paid because the judge has taken deferred retirement, no reimbursement shall be paid to the Judges' Retirement System.

If the compensation would be less than his or her retirement allowance, the retirement allowance shall continue to be paid in lieu of the compensation. The state shall reimburse the Judges' Retirement Fund in the amount of the compensation which would otherwise have been paid to the judge while sitting on assignment.

If a judge retired under the Judges' Retirement Law is assigned to sit in a court of appeal or the Supreme Court, the 8 percent difference between the compensation of the retired judge while so assigned and the compensation of a judge of the court to which assigned shall be paid to the Judges' Retirement Fund.

During the period of assignment, a retired judge shall be allowed expenses for travel, board, and lodging incurred in the discharge of the assignment. When assigned to sit in the county in which he or she resides, the judge shall be allowed expenses for travel, and board incurred in the discharge of the assignment. The expenses for travel, board, and lodging shall be paid by the state under the rules adopted by the State Board of Control which are applicable to officers of the state provided for in Article VI of the Constitution while traveling on official state business.

Notwithstanding the above provisions pertaining to compensation, a retired judge on senior judge status shall receive compensation from the state as provided in Sections 75028 and 75028.2, and shall be allowed expenses for travel, board, and lodging incurred in the discharge of the assignment as provided in this section.

SEC. 3. Section 76103 of the Government Code, as amended by Chapter 189 of the Statutes of 1991, is amended to read:

76103. To assist any county in the funding and maintenance of a criminal justice forensic laboratory, the board of supervisors may, by resolution, establish in the county treasury a forensic laboratory fund. The fund moneys, together with any interest earned thereon, shall be held by the county treasurer separate from any funds subject to transfer or division pursuant to Section 1463 of the Penal Code. The moneys in the Forensic Laboratory Fund together with any interest earned thereon shall be payable only for the construction, reconstruction, expansion, improvement, operation, or maintenance of Forensic Laboratory Facilities. The money in the fund may be used through any public agency funding mechanism including, but

not limited to, retirement of bonded indebtedness, loan repayments, and monthly payments involving lease-purchase programs, which reduce an obligation incurred in reliance upon the authority granted by this section.

SEC. 4. Section 76213 of the Government Code, as added by Chapter 189 of the Statutes of 1991, is amended to read:

76213. To assist Imperial County in the improvement of criminal justice automated information systems and the funding and maintenance of a criminal justice forensic laboratory, the board of supervisors may by resolution establish in the county treasury a Criminal Justice Investigation Fund pursuant to Section 76105.

The fund moneys together with any interest earned thereon shall be held by the treasurer separate from any funds subject to transfer or division pursuant to Section 1463 of the Penal Code. The moneys in the Criminal Justice Investigation Fund together with any interest earned thereon shall be payable only for the improvement of criminal justice automated information systems and the construction, reconstruction, expansion, improvement, operation, or maintenance of the forensic laboratory facilities. The money in the fund may be used through any public agency funding mechanism including, but not limited to, retirement of bonded indebtedness, loan repayments, and monthly payments involving lease-purchase programs, which reduce an obligation incurred in reliance upon the authority granted by this section.

SEC. 5. Section 77200 of the Government Code, as amended by Chapter 189 of the Statutes of 1991, is amended to read:

77200. (a) Except as provided in subdivisions (d) and (e), the Controller shall transmit to each option county quarterly payments on the block grant owing to that county based upon the number of judges, court commissioners, and referees in the county, as determined pursuant to Section 77202, multiplied each quarter by the following amounts:

(1) For the 1990–91 fiscal year, the sum of forty-two thousand one hundred thirty-five dollars ($42,135).

(2) For the 1991–92 fiscal year, the sum of fifty thousand five hundred sixty-two dollars ($50,562), as adjusted by a percentage equal to the average percentage salary increase for the previous fiscal year for California state employees, as determined pursuant to Section 68203.

(3) Beginning with the 1992–93 fiscal year, it is the intent of the Legislature to increase trial court funding by an amount sufficient to fund 55 percent of the annual statewide costs for court operations. It is the intent of the Legislature that this funding shall increase to 60 percent for the 1993–94 fiscal year, to 65 percent for the 1994–95 fiscal year, and to 70 percent for the 1995–96 fiscal year.

(b) In any year in which the amounts provided pursuant to this section are reduced, a county may reduce total expenditures for court operations by an amount up to but not exceeding the total dollar amount of the reduction to the county in state block grant

funding.

(c) Quarterly payments shall be transmitted by the Controller on or before the 15th day of that quarter.

(d) In the event the Budget Act for the 1991–92 fiscal year provides additional moneys for trial court funding in excess of the amount required pursuant to subdivision (a), those moneys shall be apportioned to each option county, in the amount indicated in this subdivision. These apportionments shall be in addition to those provided for in subdivision (a) and shall be allocated by the Controller on a quarterly basis as provided in subdivision (c).

Jurisdiction	Amount
Alameda	$ 13,290,000
Alpine	46,000
Amador	199,000
Butte	701,000
Calaveras	184,000
Colusa	253,000
Contra Costa	5,750,000
Del Norte	276,000
El Dorado	1,012,000
Fresno	5,750,000
Glenn	253,000
Humboldt	897,000
Imperial	1,498,000
Inyo	483,000
Kern	5,980,000
Kings	848,000
Lake	253,000
Lassen	184,000
Los Angeles	77,858,000
Madera	575,000
Marin	1,955,000
Mariposa	123,000
Mendocino	621,000
Merced	1,624,000
Modoc	146,000
Mono	138,000
Monterey	3,680,000
Napa	851,000
Nevada	1,081,000
Orange	20,270,000
Placer	1,081,000
Plumas	92,000
Riverside	6,440,000
Sacramento	8,280,000
San Benito	138,000
San Bernardino	9,660,000
San Diego	13,738,000

San Francisco	4,741,000
San Joaquin	1,863,000
San Luis Obispo	1,483,000
San Mateo	4,140,000
Santa Barbara	3,370,000
Santa Clara	10,350,000
Santa Cruz	2,287,000
Shasta	1,587,000
Sierra	105,000
Siskiyou	667,000
Solano	2,990,000
Sonoma	3,450,000
Stanislaus	1,702,000
Sutter	456,000
Tehama	437,000
Trinity	92,000
Tulare	1,702,000
Tuolumne	276,000
Ventura	5,030,000
Yolo	1,242,000
Yuba	205,000
Total	$234,383,000

(e) In no event shall the total of the quarterly payments to an option county exceed 100 percent of the annual expenditures for court operations of the county as determined by the Judicial Council and reported to the Controller. The Judicial Council shall submit to the Controller a report on the annual expenditures on or before December 1 following each fiscal year.

SEC. 6. Section 859a of the Penal Code is amended to read:

859a. (a) If the public offense charged is a felony not punishable with death, the magistrate shall immediately upon the appearance of counsel for the defendant read the complaint to the defendant and ask him or her whether he or she pleads guilty or not guilty to the offense charged therein and to a previous conviction or convictions of crime if charged. While the charge remains pending before the magistrate and when the defendant's counsel is present, the defendant may plead guilty to the offense charged, or, with the consent of the magistrate and the district attorney or other counsel for the people, plead nolo contendere to the offense charged or plead guilty or nolo contendere to any other offense the commission of which is necessarily included in that with which he or she is charged, or to an attempt to commit the offense charged and to the previous conviction or convictions of crime if charged upon a plea of guilty or nolo contendere. The magistrate may then fix a reasonable bail as provided by this code, and upon failure to deposit the bail or surety, shall immediately commit the defendant to the sheriff and certify the case, including a copy of all proceedings therein and any testimony that in his or her discretion he or she may require to be taken, to the

superior court, and thereupon the proceedings shall be had as if the defendant had pleaded guilty in that court. This subdivision shall not be construed to authorize the receiving of a plea of guilty or nolo contendere from any defendant not represented by counsel. If the defendant subsequently files a written motion to withdraw the plea under Section 1018, the motion shall be heard and determined by the court before which the plea was entered.

(b) Notwithstanding Section 1191 or 1203, the magistrate shall, upon the receipt of a plea of guilty or nolo contendere and upon the performance of the other duties of the magistrate under this section, immediately appoint a time for pronouncing judgment in the superior court, municipal court, or justice court and refer the case to the probation officer if eligible for probation, as prescribed in Section 1191.

SEC. 7. Section 1306 of the Penal Code, as amended by Chapter 90 of the Statutes of 1991, is amended to read:

1306. (a) When any bond is forfeited and the period of time specified in Section 1305 has elapsed without the forfeiture having been set aside, the court which has declared the forfeiture, regardless of the amount of the bail, shall enter a summary judgment against each bondsman named in the bond in the amount for which the bondsman is bound. The judgment shall be the amount of the bond plus costs, and notwithstanding any other law, no penalty assessments shall be levied or added to the judgment.

(b) If a court grants relief from bail forfeiture, it shall impose a monetary payment as a condition of relief to compensate the people for the costs of returning a defendant to custody pursuant to Section 1305, except for cases where the court determines that in the best interest of justice no costs should be imposed. The amount imposed shall reflect the actual costs of returning the defendant to custody.

(c) If, because of the failure of any court to promptly perform the duties enjoined upon it pursuant to this section, summary judgment is not entered within 90 days after the date upon which it may first be entered, the right to do so expires and the bail is exonerated.

(d) A dismissal of the complaint, indictment, or information after the default of the defendant shall not release or affect the obligation of the bail bond or undertaking.

(e) The district attorney or county counsel shall:

(1) Demand immediate payment of the judgment within 30 days after the summary judgment becomes final.

(2) If the judgment remains unpaid for a period of 20 days after demand has been made, shall forthwith enforce the judgment in the manner provided for enforcement of money judgments generally. If the judgment is appealed by the surety or bondsman, the undertaking required to be given in these cases shall be provided by a surety other than the one filing the appeal. The undertaking shall comply with the enforcement requirements of Section 917.1 of the Code of Civil Procedure.

(f) The right to enforce a summary judgment entered against a

bondsman pursuant to this section shall expire two years after the entry of the judgment.

SEC. 8. Section 1462 of the Penal Code is amended to read:

1462. (a) Each municipal and justice court shall have jurisdiction in all criminal cases amounting to misdemeanor, where the offense charged was committed within the county in which the municipal or justice court is established except those of which the juvenile court is given jurisdiction and those of which other courts are given exclusive jurisdiction. Each municipal and justice court shall have exclusive jurisdiction in all cases involving the violation of ordinances of cities or towns situated within the district in which the court is established.

(b) Each municipal and justice court shall have jurisdiction in all noncapital criminal cases to receive a plea of guilty or nolo contendere, appoint a time for pronouncing judgment under Section 859a, pronounce judgment, and refer the case to the probation officer if eligible for probation.

(c) The superior courts shall have jurisdiction in all misdemeanor criminal cases to receive a plea of guilty or nolo contendere, appoint a time for pronouncing judgment, and pronounce judgment.

SEC. 9. Section 1464 of the Penal Code, as amended by Chapter 189 of the Statutes of 1991, is amended to read:

1464. (a) Subject to Chapter 12 (commencing with Section 76000) of Title 8 of the Government Code, there shall be levied a state penalty in an amount equal to ten dollars ($10) for every ten dollars ($10) or fraction thereof, upon every fine, penalty, or forfeiture imposed and collected by the courts for criminal offenses, including all offenses involving a violation of a section of the Vehicle Code or any local ordinance adopted pursuant to the Vehicle Code, except offenses relating to parking. Any bail schedule adopted pursuant to Section 1269b may include the necessary amount to pay the state penalties established by this section and Chapter 12 (commencing with Section 76000) of Title 8 of the Government Code for all matters where a personal appearance is not mandatory and the bail is posted primarily to guarantee payment of the fine.

(b) Where multiple offenses are involved, the state penalty shall be based upon the total fine or bail for each case. When a fine is suspended, in whole or in part, the state penalty shall be reduced in proportion to the suspension.

(c) When any deposited bail is made for an offense to which this section applies, and for which a court appearance is not mandatory, the person making the deposit shall also deposit a sufficient amount to include the state penalty prescribed by this section for forfeited bail. If bail is returned, the state penalty made thereon pursuant to this section shall also be returned.

(d) In any case where a person convicted of any offense, to which this section applies, is in prison until the fine is satisfied, the judge may waive all or any part of the state penalty, the payment of which would work a hardship on the person convicted or his or her

immediate family.

(e) After a determination by the court of the amount due, the clerk of the court shall collect the same and transmit it to the county treasury. The portion thereof attributable to Chapter 12 (commencing with Section 76000) of Title 8 of the Government Code shall be deposited in the appropriate county fund and the balance shall then be transmitted to the State Treasury with 70 percent to be deposited in the State Penalty Fund, which is hereby created and 30 percent to remain on deposit in the General Fund. The transmission to the State Treasury shall be carried out in the same manner as fines collected for the state by a county.

(f) The moneys so deposited in the State Penalty Fund shall be distributed as follows:

(1) Once a month there shall be transferred into the Fish and Game Preservation Fund an amount equal to 0.33 percent of the state penalty funds deposited in the State Penalty Fund during the preceding month, but in no event shall the total amount be less than the state penalty levied on fines or forfeitures for violation of state laws relating to the protection or propagation of fish and game. These moneys are to be used for the education or training of department employees which fulfills a need consistent with the objectives of the Department of Fish and Game.

(2) Once a month there shall be transferred into the Restitution Fund an amount equal to 32.02 percent of the state penalty funds deposited in the State Penalty Fund during the preceding month. Those funds shall be made available in accordance with subdivision (b) of Section 13967 of the Government Code.

(3) Once a month there shall be transferred into the Peace Officers' Training Fund an amount equal to 23.99 percent of the state penalty funds deposited in the State Penalty Fund during the preceding month.

(4) Once a month there shall be transferred into the Driver Training Penalty Assessment Fund an amount equal to 25.70 percent of the state penalty funds deposited in the State Penalty Fund during the preceding month.

(5) Once a month there shall be transferred into the Corrections Training Fund an amount equal to 7.88 percent of the state penalty funds deposited in the State Penalty Fund during the preceding month. Money in the Corrections Training Fund is not continuously appropriated and shall be appropriated in the Budget Act.

(6) Once a month there shall be transferred into the Local Public Prosecutors and Public Defenders Training Fund established pursuant to Section 11503 an amount equal to 0.78 percent of the state penalty funds deposited in the State Penalty Fund during the preceding month. The amount so transferred shall not exceed the sum of eight hundred fifty thousand dollars ($850,000) in any fiscal year. The remainder in excess of eight hundred fifty thousand dollars ($850,000) shall be transferred to the Restitution Fund.

(7) Once a month there shall be transferred into the

Victim-Witness Assistance Fund an amount equal to 8.64 percent of the state penalty funds deposited in the State Penalty Fund during the preceding month.

(8) (A) Once a month there shall be transferred into the Traumatic Brain Injury Fund, created pursuant to Section 4358 of the Welfare and Institutions Code, an amount equal to 0.66 percent of the state penalty funds deposited into the State Penalty Fund during the preceding month, until the amount deposited in the Traumatic Brain Injury Fund, as determined by the Department of Finance, for any fiscal year equals five hundred thousand dollars ($500,000). All moneys in excess of that amount shall be distributed pro rata pursuant to paragraphs (1) to (7), inclusive, and utilized in accordance with this subdivision.

(B) Any moneys deposited in the State Penalty Fund attributable to the assessments made pursuant to subdivision (i) of Section 27315 of the Vehicle Code on or after the date that Chapter 6.6 (commencing with Section 5564) of Part 1 of Division 5 of the Welfare and Institutions Code is repealed shall be utilized in accordance with paragraphs (1) to (8), inclusive, of this subdivision.

SEC. 10. Section 4760.1 of the Vehicle Code, as amended by Chapter 90 of the Statutes of 1991, is amended to read:

4760.1. (a) The department shall, before renewing the registration of any vehicle, check the driver's license record of all registered owners for conviction of traffic violations and traffic accidents.

(b) The department shall, before renewing the registration of any vehicle, check the driver's license record of all registered owners for notices of failure to appear or pay a fine filed with it and shall refuse to renew the registration of the vehicle if the driver's license record of any registered owner has any outstanding notices to appear or failures to pay a court ordered fine, unless the department has received a certificate issued by the magistrate or clerk of the court hearing the case in which the promise was given showing that the case has been adjudicated or unless the registered owner's record is cleared as provided in Chapter 6 (commencing with Section 41500) of Division 17. In lieu of the certificate of adjudication, a notice from the court stating that the original records have been lost or destroyed shall permit the department to renew the registration.

(c) Any notice received by the department pursuant to Section 40509 which has been on file five years may be removed from the department records and destroyed, in the discretion of the department.

(d) In lieu of the certificate of adjudication or a notice from the court, the department shall with the consent of all registered owners collect the amounts which it has been notified are due pursuant to Sections 40509 and 40509.5, and authorized to be collected pursuant to Article 2 (commencing with Section 14910) of Chapter 5 of Division 6.

SEC. 11. Section 40611 of the Vehicle Code, as amended by

Chapter 189 of the Statutes of 1991, is amended to read:

40611. Upon proof of correction of an alleged violation of Section 12500, 12951, or any violation cited pursuant to 40610 of the Vehicle Code, the clerk shall collect a ten dollar ($10) transaction fee for each case. The fee shall be deposited by the clerk in accordance with Section 68084 of the Government Code, and allocated monthly as follows:

(a) Thirty-three percent shall be transferred to the local governmental entity in whose jurisdiction the citation was issued for deposit in the general fund of the entity.

(b) Thirty-four percent shall be transferred to the State Treasury for deposit in the State Penalty Fund established by Section 1464 of the Penal Code.

(c) Thirty-three percent shall be deposited in the county general fund.

SEC. 12. Section 42006 of the Vehicle Code is amended to read:

42006. (a) Except as provided in subdivision (c), there may be levied a special assessment in an amount equal to one dollar ($1) for every fine and forfeiture, imposed and collected by any court which conducts a night session of the court, on all offenses involving a violation of a section of this code or any local ordinance adopted pursuant to this code, except offenses relating to parking.

(b) When a person makes a deposit of bail for an offense to which this section applies, in a case in which the person is required to appear in a court which conducts a night session, the person making the deposit shall also deposit a sufficient amount to include the assessment prescribed in this section for forfeited bail. If bail is forfeited, the amount of the assessment shall be transmitted by the clerk of the court to the county treasury for disposition as prescribed by subdivision (d).

(c) If a court conducts sessions at two or more locations, the court may do either of the following:

(1) Levy assessments only on those persons who are required to appear at the location where night sessions are held.

(2) Levy assessments on persons who have the option to appear at a location where night court sessions are held and that location is within 25 miles of the location of the court where the person is otherwise required to appear, if the court prepares and submits a report to the Legislative Analyst on or before February 1, 1986, which itemizes the additional costs of the night court session or sessions for the calendar years of 1983, 1984, and 1985, and the revenues received from the assessment levied under subdivision (a) in those calendar years.

(d) After a determination by the court of the amount of the assessment due, the clerk of the court shall collect the amount and transmit it to the county treasury to be deposited in the night court session fund, and the money in the fund shall be expended by the county for maintaining courts in the county which have night sessions for traffic offenses.

(e) In any case where a person convicted of any offense to which this section applies is imprisoned until the fine is satisfied, the judge shall waive the penalty assessment.

SEC. 13. Section 75 of Chapter 90 of the Statutes of 1991, as amended by Chapter 189 of the Statutes of 1991, is amended to read:

Sec. 75. (a) The Judicial Council shall study the economic effects of decriminalizing minor violations of the Vehicle Code, and violations of ordinances, regulations, and provisions of that code governing the standing or parking of vehicles, and report to the Legislature, on or before July 1, 1992, which of those violations, if any, it recommends be decriminalized.

(b) As part of the study conducted in subdivision (a), the Judicial Council shall also examine any possible models or methods for alternative administrative resolution or adjudication of these minor violations and small claims actions outside of an adjudication in an judicial forum. Based on this examination and study, the Judicial Council shall make recommendations on an alternative forum in which to adjudicate these violations and the necessary procedures.

CHAPTER 614

An act to amend Section 8670.37.5 of the Government Code, relating to oilspills, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 6, 1991. Filed with Secretary of State October 8, 1991.]

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

SECTION 1. Section 8670.37.5 of the Government Code is amended to read:

8670.37.5. (a) The administrator shall establish rescue and rehabilitation stations for sea birds, sea otters, and other marine mammals. These facilities shall be established and maintained in a state of preparedness to provide the best achievable treatment for marine mammals and birds affected by an oilspill in marine waters.

(b) The first rescue and rehabilitation station established pursuant to this section shall be located within the sea otter range on the central coast, and the administrator shall proceed to bid on the construction contract by January 1, 1994.

(c) Not later than July 1, 1992, the administrator shall consult with the United States Fish and Wildlife Service, the National Marine Fisheries Service, the California Coastal Commission, the Marine Mammal Center, and the International Bird Rescue Center in the design, planning, construction, and operation of the rehabilitation stations. All proposals for the rehabilitation stations shall be presented before a public hearing prior to the construction and

operation of any rehabilitation station, and, upon completion of the coastal protection element of the state oilspill contingency plan, shall be consistent with the coastal protection element.

(d) (1) Five hundred thousand dollars ($500,000) of federal escrow funds received by the state pursuant to Section 8(g) of the Outer Continental Shelf Lands Act, as amended (43 U.S.C. Sec. 1337(g)), shall, upon approval in the 1991–92 Budget Act, be appropriated or allocated for appropriation, as the case may be, from the Federal Trust Fund, each year for three years for the purposes described in subdivision (a).

(2) Additional funding shall be provided for the purposes described in subdivision (a) through the budget act process upon the request by the administrator.

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

In order to ensure that effective protection from oilspills is provided for sea birds, sea otters, and other marine mammals in a timely manner, it is necessary that this act take effect immediately.

CHAPTER 615

An act to amend Sections 78407, 78485, 78491, 78500, and 78557 of, and to add Section 78564 to, the Food and Agricultural Code, relating to seafood, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 6, 1991. Filed with Secretary of State October 8, 1991.]

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

SECTION 1. Section 78407 of the Food and Agricultural Code is amended to read:

78407. "Fisheries" means:

(a) All species of fish and shellfish harvested in ocean waters landed in California which are treated as a unit for purposes of research, development, promotion, and marketing, except abalone, anchovy, dungeness crab, herring and herring roe, pink shrimp, salmon, sea urchins, all fish taken by use of trawl nets landed north of San Luis Obispo County, and all tuna landed for canning in this state or for transshipment for canning in other states or nations.

(b) Any economic activity involving the harvesting, receiving, processing, manufacturing, or distributing of fisheries described in subdivision (a) and products therefrom.

SEC. 2. Section 78485 of the Food and Agricultural Code is amended to read:

78485. (a) The notice requesting nominations shall indicate that nominations shall be mailed to the director at his or her office in Sacramento and that the director will consider nominations received by mail postmarked no later than March 1.

(b) Each nomination shall set forth all of the following information:

(1) The name and address of the nominee.

(2) Whether the nominee is being nominated as a member or alternate member.

(3) The type of category for which the nominee is being nominated.

(4) The list of qualifications and supporters, if any, for the nominee.

(5) The name and address of the nominating association, organization, or individual.

SEC. 3. Section 78491 of the Food and Agricultural Code is amended to read:

78491. The voting members of the council shall receive forty dollars ($40) per day per diem for each day spent in actual attendance at the meetings or on the business of the council and shall be reimbursed for necessary traveling and other expenses incurred in the performance of their official duties. Nonvoting members shall be reimbursed for necessary traveling and other expenses at the same rate as voting members if the agency they represent does not reimburse them for those expenses. Alternates shall be reimbursed for traveling and other expenses and shall receive per diem at the same rate as voting members for meetings which they attend.

SEC. 4. Section 78500 of the Food and Agricultural Code is amended to read:

78500. The duties of the council shall be advisory, except as to those duties which may be delegated to it by the director or as otherwise designated in this chapter. The council may, subject to the approval of the director, exercise any of the following powers which may be delegated to the council by the director:

(a) To recommend to the director regulations which relate to the administration and enforcement of this chapter.

(b) To investigate all matters which affect the administration of this chapter, and to report violations of this chapter to the director.

(c) To employ and, at its pleasure, discharge, a manager and any other employees it deems necessary, and to prescribe their duties and powers and fix their compensation.

(d) To contract for the services of any person.

(e) To establish offices and incur expenses incidental thereto.

(f) To make contracts and other agreements to research, develop, market, and promote the sale of seafood and seafood products from fisheries, as defined in subdivision (a) of Section 78407, and landed in California, on either a local, state, national, or international basis.

(g) (1) To cooperate with any other local, state, or national commission, organization, or agency, whether voluntary or created

by state or federal law, including, but not limited to, the West Coast Fisheries Development Foundation, the California Salmon Council, and the National Fish and Seafood Promotion Council, which is engaged in work or activities similar to the work and activities of the council, and to recommend to the director the making of contracts and agreements with those organizations or agencies for carrying on joint programs of education, communication, research, publicity, and advertising.

(2) To recommend to the director the making of contracts and agreements with other councils, commodity commissions, or producer organizations for joint programs of publicity and advertising where those products are compatible with the promotion of seafood and seafood products from fisheries, as defined in subdivision (a) of Section 78407, and landed in California.

(3) In matters of research, to cooperate with organizations of recognized professional standing which are adequately equipped with facilities for the research which is contemplated.

(h) To recommend to the director the institution and promotion of scientific research to develop or discover, or both, the health, food, therapeutic, dietetic, and other uses of seafood.

(i) To recommend or contract for scientific research for the promotion, utilization, and benefit of seafood and seafood products for the purpose of successful seafood marketing.

(j) To recommend or contract for the development of voluntary product quality standards.

(k) To promote accurate labeling of California seafood as a means to educate consumers and the public about the benefits of California seafood.

(l) To receive, invest, and disburse funds pursuant to Article 7 (commencing with Section 78550).

(2) To allocate funds to agencies not specifically or solely engaged in carrying on research or promotion for seafood, if the council and the director are satisfied that those allocations will be beneficial to the California commercial fisheries and will tend to effectuate the declared purposes of this chapter.

SEC. 5. Section 78557 of the Food and Agricultural Code is amended to read:

78557. One year after the establishment of the council, the council may recommend to the director an increase over and above four-tenths of 1 percent of the price per pound paid to the fisherman for each pound of fish or shellfish specified in subdivision (a) of Section 78407 for the council to carry out its duties under this chapter. The council shall consider the budget for the council, funding for activities conducted pursuant to Article 6 (commencing with Section 78525), as well as the market prices of seafood landed in California, landing taxes imposed by the Department of Fish and Game, and any other relevant factor affecting the economics of the fisheries. The council shall, in making any determination to increase fees, consult with fishermen and receivers and, if the recommended

increase would exceed eight-tenths of 1 percent of the market price per pound paid to the fisherman for each pound of fish or shellfish sold, conduct a ballot poll of the fishermen and receivers on the director's list established pursuant to Article 8 (commencing with Section 78575). The director may not increase any fee without the approval of two-thirds the voting members of the council.

SEC. 6. Section 78564 is added to the Food and Agricultural Code, to read:

78564. The council may develop guidelines for the establishment and operation of a "credit-back" program for receivers and fishermen, which authorizes the reimbursement of a percentage of individual contributions to the council, not to exceed 50 percent, for specified individual expenditures benefiting the fishing industry. Individual expenditures eligible for reimbursement may include, but are not necessarily limited to, promotion, research and development, and advertising. The council shall appoint a review committee from its membership and from the fishing industry to review and approve applications for the credit. Any guidelines that require the assistance of, or impact the operation of, the Department of Fish and Game are subject to Section 78552.

SEC. 7. (a) Pursuant to an interagency agreement between the Department of Food and Agriculture and the California Environmental Protection Agency, the Department of Food and Agriculture shall contract with the California Seafood Council to complete a research study on the Pacific sardine fishery. The California Seafood Council may expend the sum of two hundred thousand dollars ($200,000), received from the Department of Food and Agriculture pursuant to an interagency agreement with the California Environmental Protection Agency, for the study.

(b) It is the intent of the Legislature that all future resource assessment studies be conducted under the authority of the Department of Fish and Game.

SEC. 8. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order for the act to take effect prior to the establishment of the California Seafood Council in accordance with Chapter 1151 of the Statutes of 1990, and in order to complete, as soon as possible, the third and final phase of a three-part study on the status of the Pacific sardine fishery without a significant lapse in data collection, it is necessary that this act take effect immediately.

CHAPTER 616

An act to amend Sections 980 and 987.721 of the Military and Veterans Code, relating to veterans, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 6, 1991. Filed with Secretary of State October 8, 1991.]

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

SECTION 1. Section 980 of the Military and Veterans Code is amended to read:

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

(1) Any citizen of the United States who served in the active military, naval, or air service of the United States on or after April 6, 1917, and prior to November 12, 1918; received an honorable discharge or was released from active duty under honorable conditions; was, at the time of entry into active duty, a native of or a bona fide resident of this state or, if a minor at that time, entered active duty while in this state; and had lived in this state for six months immediately preceding entry into active duty.

(2) Any person who served in the active military, naval, or air service of the United States for a period of not less than 90 consecutive days or was discharged from the service due to a service-connected disability within that 90-day period; received an honorable discharge or was released from active duty under honorable conditions; was at the time of entry into active duty a native of or bona fide resident of this state or, if a minor at that time, entered active duty while in this state and had lived in this state for six months immediately preceding entry into active duty; and performed any portion of that service during any of the following periods:

(A) On or after December 7, 1941, and prior to January 1, 1947.

(B) On or after June 27, 1950, and prior to February 1, 1955.

(C) On or after August 5, 1964, and prior to May 8, 1975.

(D) On or after August 2, 1990, to and including the date on which the territories in and around the Arabian Peninsula cease to be designated as a place where the armed forces of the United States are engaged in combat, as described in Executive Order 12744 of the President of the United States. It is the intent of the Legislature, in enacting this subparagraph, that the benefits provided by this chapter shall be available to all veterans who were on active duty in the armed forces of the United States or who were called to active duty in the reserves or National Guard during the pendency of the deployment of forces for Operation Desert Shield or Desert Storm, which resulted in Executive Order 12744, irrespective of whether these veterans served overseas or in the United States.

(E) At any time, in a campaign or expedition for service in which a medal has been authorized by the government of the United States, regardless of the number of days served on active duty.

(3) Any member of the reserves or National Guard who is called to, and released from, active duty, regardless of the number of days served; called during any period when a presidential executive order specifies the United States is engaged in combat; received an honorable discharge or was released from active duty under honorable conditions; was at the time of entry into active duty a native of, or bona fide resident of this state or, if a minor at that time, entered active duty while in this state and had lived in this state for six months immediately preceding entry into active duty.

(b) This chapter does not include any of the following:

(1) A person who was separated from the armed forces under other than honorable conditions.

(2) A person who was separated from the armed forces on account of alienage.

(3) A person who performed no military duty whatever or refused to wear the uniform.

(4) A person who has received from another state a bonus, compensation, or benefit, the prerequisite of which is service in the armed forces, which service is the basis for the claim of benefits under this chapter.

(5) A person who served only in an auxiliary or reserve component of the armed forces whose service therein did not provide an exemption from the operation of the Selective Training and Service Act of 1940 (54 Stat. 885, as amended).

(6) A person whose service with the armed forces was due to temporary active duty orders for the sole purpose of training duty, processing, or a physical examination.

(7) A person whose only service during a qualifying period was as a student at a military academy and who, for any reason, failed to complete the course of study and subsequently did not serve on active duty.

SEC. 2. Section 987.721 of the Military and Veterans Code is amended to read:

987.721. (a) Notwithstanding Section 987.72, upon the dissolution of marriage or legal separation of a veteran contract purchaser and the veteran's spouse, an assignment may be made in favor of the nonveteran former spouse at the same rate of interest and upon the same terms and conditions as are provided to veteran purchasers provided the veteran's entire beneficial interest is transferred to the spouse and provided there are one or more dependent children of the veteran occupying the property and the spouse continues to reside in the home and make the payments in the same amount required by the purchase contract. For purposes of this subdivision, any child of the veteran who is legally adopted or who acquires a separate domicile or marries shall not be considered a dependent child.

(b) Should the veteran retain entire beneficial interest in the property after dissolution or legal separation, the veteran may continue as purchaser provided either the veteran or the former spouse continues to occupy the property.

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

With the conclusion of the hostilities in the Middle East, many members of the United States armed forces will be returning to California before January 1, 1992, when this bill would otherwise become effective. These returning veterans will be in immediate need of the programs of assistance provided by this act. Therefore, it is necessary that this act take effect immediately.

CHAPTER 617

An act to amend Sections 33352, 33353, 33353.5, 33354, and 35179 of the Education Code, relating to school athletics.

[Approved by Governor October 6, 1991 Filed with Secretary of State October 8, 1991.]

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

SECTION 1. Section 33352 of the Education Code, as amended by Section 1 of Chapter 646 of the Statutes of 1986, is amended to read:

33352. The State Department of Education shall exercise general supervision over the courses of physical education in elementary and secondary schools of the state; advise school officials, school boards, and teachers in matters of physical education; and investigate the work in physical education in the public schools.

This section shall remain in effect only until July 1, 1994, and as of such date is repealed, unless a later enacted statute, which is chaptered before July 1, 1994, deletes or extends such date. If that date is not deleted or extended, then, on and after July 1, 1994, pursuant to Section 9611 of the Government Code, Section 33352 of the Education Code, as added by Section 2 of Chapter 1010 of the Statutes of 1976, shall have the same force and effect as if this temporary provision had not been enacted.

SEC. 2. Section 33353 of the Education Code is amended to read:

33353. The California Interscholastic Federation is a voluntary organization consisting of school and school related personnel with responsibility, generally, for administering interscholastic athletic activities in secondary schools. It is the intent of the Legislature that the California Interscholastic Federation, in consultation with the State Department of Education, implement the following policies:

(a) Give school district governing boards specific authority to select their athletic league representatives.

(b) Require that all league, section, and state meetings affiliated with the California Interscholastic Federation be subject to the notice and hearing requirements of the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Division 2 of Title 5 of the Government Code).

(c) Establish a neutral final appeals body to hear complaints related to interscholastic athletic policies.

This section shall remain in effect only until July 1, 1994, and as of that date is repealed, unless a later enacted statute, which is enacted before July 1, 1994, deletes or extends that date.

SEC. 3. Section 33353.5 of the Education Code is amended to read:

33353.5. The California Interscholastic Federation shall not transact insurance as defined in Section 35 of the Insurance Code, nor shall the federation endorse any insurance programs.

SEC. 4. Section 33354 of the Education Code is amended to read:

33354. (a) The State Department of Education shall have the following authority over interscholastic athletics:

(1) The State Department of Education may state that the policies of school districts, of associations or consortia of school districts, and of the California Interscholastic Federation, concerning interscholastic athletics, are in compliance with both state and federal law.

(2) If the State Department of Education states that a school district, an association or consortium of school districts, or the California Interscholastic Federation is not in compliance with state or federal law, the State Department of Education may require the school district, association or consortium, or the federation to adjust its policy so that it is in compliance. However, the State Department of Education shall not have authority to determine the specific policy which a school district, association or consortium, or the federation must adopt in order to comply with state and federal laws.

(3) If the State Department of Education states that a school district, association or consortium, or the federation is not in compliance with state or federal law in matters relating to interscholastic activities, and the school district, association or consortium, or the federation does not change its policy in order to comply with these laws, the State Department of Education may commence with appropriate legal proceedings against the California Interscholastic Federation, the school district or against school districts which are members of the California Interscholastic Federation or the association or consortium which the department states is in noncompliance. In such a legal proceeding the court shall determine the matter de novo. The State Department of Education may make recommendations for appropriate remedies in these proceedings.

(b) This section shall not be construed or interpreted to limit the

discretion of local governing boards, or voluntary associations formed or maintained pursuant to subdivision (b) of Section 35179, in any policy, program, or activity which is in compliance with state and federal law.

(c) The state law with which the policies of school districts, of associations or consortia of school districts, and of the California Interscholastic Federation, concerning interscholastic athletics, are required to comply, in accordance with this section, includes, but is not limited to, any regulations issued by the State Board of Education pursuant to Section 232 with regard to sex discrimination in interscholastic athletics.

(d) This section shall remain in effect only until July 1, 1994, and as of that date is repealed, unless a later enacted statute, which is enacted before July 1, 1994, deletes or extends that date.

SEC. 5. Section 35179 of the Education Code is amended to read:

35179. (a) Each school district governing board shall have general control of, and be responsible for, all aspects of the interscholastic athletic policies, programs, and activities in its district, including, but not limited to, eligibility, season of sport, number of sports, personnel, and sports facilities. In addition, the board shall assure that all interscholastic policies, programs, and activities in its district are in compliance with state and federal law.

(b) Governing boards may enter into associations or consortia with other boards for the purpose of governing regional or statewide interscholastic athletic programs by permitting the public schools under their jurisdictions to enter into a voluntary association with other schools for the purpose of enacting and enforcing rules relating to eligibility for, and participation in, interscholastic athletic programs among and between schools.

(c) Each governing board, or its designee, shall represent the individual schools located within its jurisdiction in any voluntary association of schools formed or maintained pursuant to this section.

(d) No voluntary interscholastic athletic association, of which any public school is a member, shall discriminate against, or deny the benefits of any program to, any person on the basis of race, sex, or ethnic origin.

(e) Interscholastic athletics is defined as those policies, programs, and activities that are formulated or executed in conjunction with, or in contemplation of, athletic contests between two or more schools, either public or private.

(f) This section shall remain in effect only until July 1, 1994, and as of that date is repealed, unless a later enacted statute, which is enacted before July 1, 1994, deletes or extends that date.

CHAPTER 618

An act relating to reimbursements for voluntary desegregation.

[Approved by Governor October 6, 1991. Filed with Secretary of State October 8, 1991]

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

SECTION 1. Notwithstanding paragraph (2) of subdivision (a) of Section 42247 of the Education Code, in the case of the Oakland Unified School District, the Controller shall designate as "the first full year of operation" for purposes of Section 42247, the 1992–93 fiscal year, subject to the following conditions:

(a) Prior to April 30, 1991, the district has repaid to the State of California the amount of five million seven hundred twenty-five thousand six hundred forty-six dollars ($5,725,646), representing the amount disbursed to the district under Section 42247 during the 1988–89 fiscal year.

(b) Prior to December 31, 1991, the district has submitted a plan and detailed budget for voluntary desegregation of the district during the 1992–93 fiscal year to the Superintendent of Public Instruction and the Controller, and the superintendent has approved the plan and the Controller has approved the budget by April 1, 1992.

(c) The amount of the "audited costs approved by the Controller for the first full year of operation" shall not exceed nine million seven hundred thousand dollars ($9,700,000).

(d) During the 1992–93 school year, the Controller shall review implementation of the plan and report his or her findings to the Joint Legislative Budget Committee by March 1, 1993. Prior to appropriating funds for the 1993–94 fiscal year, appropriate legislative budget committees shall review the plan for implementation and compliance.

The district may become a regular recipient of budgeted funding pursuant to Section 42247 starting in the 1993–94 fiscal year provided that funds for this purpose are included in the Budget Act of 1993.

SEC. 2. Due to the unique circumstances concerning the educational recovery plan in the Oakland Unified School District, it is necessary that a special provision for voluntary desegregation reimbursement be made for the district, and the Legislature finds and declares that a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution.

CHAPTER 619

An act to add Chapter 1.5 (commencing with Section 19010) to Part 3 of Division 13 of the Health and Safety Code, relating to radon certification.

[Approved by Governor October 6, 1991. Filed with Secretary of State October 8, 1991.]

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

SECTION 1. Chapter 1.5 (commencing with Section 19010) is added to Part 3 of Division 13 of the Health and Safety Code, to read:

CHAPTER 1.5. RADON CERTIFICATION

Article 1. General Provisions and Definitions

19010. This chapter establishes requirements for the certification of radon measurement laboratories, radon testing and consulting specialists, and radon mitigation contractors.

19011. "Radon measurement laboratory" means a commercial laboratory which analyzes radon detectors or tests for radon or radon decay products. A radon measurement laboratory shall meet the provisions for certification of this chapter.

19012. "Radon testing and consulting specialist" means an individual person who performs radon or radon progeny measurements in buildings; who provides professional or expert advice on radon and radon progeny measurements, radon entry routes, and other radon related activities; and who is knowledgeable in the health risk associated from exposure to radon. A radon testing and consulting specialist shall meet the provisions for certification of this chapter.

19013. "Radon mitigation contractor" means an individual person, corporation, company, or other association which repairs or alters a building or design for the purpose, in whole or in part, of reducing the concentration of radon in the indoor atmosphere. A radon mitigation contractor or the operating supervisor of the radon mitigation contractor shall meet the provisions for certification of this chapter.

19014. "Department" means the State Department of Health Services.

Article 2. Certification and Certification Applications

19015. Except as provided in Section 19032, no person may test for, analyze, or mitigate against, the presence of radon in any building or on any building lot, design a radon mitigation system, purvey radon testing equipment or radon mitigation equipment to

the general public, or represent or advertise that he or she may so test, mitigate, or purvey, unless that person has first applied for and obtained certification for the activity from the department pursuant to this chapter, which certification has not expired or been revoked or suspended.

19016. A certification issued under this chapter is valid for not more than two years and shall expire on December 31 of the second calendar year after it is issued. The certification shall be issued in the form and manner determined by the department.

19017. An application for renewal of a radon certificate shall be filed not later than 90 days before the expiration of an existing certification.

19018. The application for certification, or renewal of certification, shall be submitted in writing on forms provided by the department.

19019. The application shall be accompanied with the following:

(a) A nonrefundable application fee in the amount provided in Section 19021.

(b) Written evidence that the applicant has the minimum qualifications as required by Article 3 (commencing with Section 19025) to perform the activity for which certification is sought.

19020. Applications for more than one type of certification may be combined and submitted as one application, if all of the requirements for each type of certification provided in this chapter are met.

19021. The application fees for certification are nonrefundable and shall be in the following amounts:

(a) Radon Measurement Laboratory	$300
(b) Radon Testing and Consulting Specialist	$100
(c) Radon Mitigation Contractor	$200

These fees shall be deposited into the Radon Contractor Certification Fund, which is hereby created. The moneys in this fund are available, upon appropriation by the Legislature, to the State Department of Health Services for the purposes of this chapter.

19022. The state may enter into a reciprocal agreement with any other state under which each state recognizes the other's radon certification program, if that other reciprocal state's program meets this state's basic requirements. Each reciprocal agreement shall be published in the quarterly bulletin published pursuant to Section 19030.

Article 3. Qualifications and Specific Requirements

19025. An applicant for certification under this chapter shall meet the minimum qualifications in this article.

19026. A person shall not be certified or recertified as a radon testing and consulting specialist unless the applicant meets all of the

following qualifications:

(a) The applicant submits written evidence of successful completion of a minimum of 16 hours of a classroom course of study in radon measurement meeting the standards adopted by the department. The department shall adopt the guidelines for the classroom training course of the National Radon Measurement Proficiency Program of the federal Environmental Protection Agency as the standards for the classroom course of study pursuant to Section 19033.

(b) The applicant provides a quality assurance and quality control program meeting the standards adopted by the department. The department shall adopt the guidelines for the quality assurance and quality control program provided in the National Radon Measurement Proficiency Program of the federal Environmental Protection Agency as the standards for the quality assurance and quality control program pursuant to Section 19033.

(c) For renewal of certification, the applicant submits written evidence of successful participation in each radon proficiency program applicable to radon testing and consulting specialists offered by the federal Environmental Protection Agency since the date of the prior application for certification, or shows good cause for not participating in each of those programs in which the applicant did not participate.

(d) On and after January 1, 1992, the applicant for certification for the calendar year 1992 or any part thereof, and thereafter, submits evidence of having, at a minimum, a bachelor's degree with a major in physical, biological, or engineering science from a recognized institution of postsecondary education.

19027. (a) A laboratory shall not be certified or recertified as a radon measurement laboratory unless the laboratory complies with the applicable requirements in Sections 19015 to 19021, inclusive.

(b) A radon measurement laboratory certification authorizes the laboratory to perform radon analysis utilizing only those types of devices for which it is certified.

(c) A laboratory shall not be certified or recertified as a radon measurement laboratory unless the applicant meets all of the following qualifications:

(1) The applicant submits written evidence of successful completion by an operating supervisor of the laboratory of a classroom course of study in radon measurement meeting the standards adopted by the department. The department shall adopt the guidelines for the classroom training course of the National Radon Measurement Proficiency Program of the federal Environmental Protection Agency as the standards for the classroom course of study pursuant to Section 19033.

(2) The laboratory provides (a) quality assurance and quality control program meeting the standards adopted by the department. The department shall adopt the guidelines for the quality assurance and quality control program provided in the National Radon

Measurement Proficiency Program of the federal Environmental Protection Agency as the standards for the quality assurance and quality control program pursuant to Section 19033.

(3) For renewal of certification, the applicant submits written evidence of successful participation by the operating supervisor of the laboratory in each radon proficiency program applicable to radiation measurement laboratories offered by the federal Environmental Protection Agency since the date of the prior application for certification, or shows good cause for not participating in each of those programs in which the applicant's operating supervisor did not participate.

19028. (a) A contractor shall not be certified as a radon mitigation contractor unless the applicant complies with the applicable requirements in Sections 19015 to 19021, inclusive.

(b) A contractor shall not be certified or recertified as a radon mitigation contractor unless the applicant meets all of the following qualifications:

(1) The applicant submits written evidence of successful completion of a radon contractors proficiency program meeting the standards adopted by the department. The department shall adopt the guidelines for the National Radon Contractors Proficiency Program of the federal Environmental Protection Agency as the standards for the radon contractors proficiency program pursuant to Section 19033.

(2) For renewal of certification, the applicant submits written evidence of successful participation in each radon proficiency program applicable to radon contractors offered by the federal Environmental Protection Agency offered since the date of prior application, or shows good cause for not participating in each of those programs in which the applicant's operating supervisor did not participate.

19029. An employee of the State of California or any employee of an agency of the United States working in the radon program, and who meets the experience and educational requirement for certification in any of the categories set forth in this chapter, shall be certified in that category. A certification under this section is valid only for purposes of that person's employment and shall not authorize the employee to perform any private consulting within the State of California.

19030. The department shall, on or before March 1, 1992, and quarterly thereafter publish, and work with associations representing certified radon testers and mitigators to widely disseminate, a list of persons and entities certified under this act, and, to the extent the information is available, the list of persons and entities of reciprocal states which are known to operate in this state.

19031. This chapter does not apply to a person in any of the following circumstances:

(a) The person is testing for, or mitigating radon in a building that the person owns or occupies.

(b) The person is designing or constructing mitigation measures to prevent against radon infiltration or accumulation in new construction.

(c) The person is performing scientific research regarding testing or mitigation of radon, but only if the person informs the owner and the occupant of the building of all of the following:

(1) That the person is not certified by the department to test for, or to mitigate against, radon.

(2) Any test results are neither certified or valid for legal purposes.

(3) Any mitigation methods suggested or used are experimental.

(d) The person or entity is purveying radon equipment which is approved by the department for sale to the general public that is manufactured or designed by a person or entity that is certified under this chapter, or the person or entity is purveying radon equipment to a person or entity which is certified under this chapter.

19032. A person or entity which is certified in another state, which has a reciprocal agreement with this state pursuant to Section 19022, may conduct those activities in this state for which the person or entity is certified in that other state.

19033. (a) The federal guidelines prescribed in this chapter shall become state standards unless the department finds the federal guidelines do not promote the intent and purposes of this chapter. Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, and except as provided in subdivision (b), a federal guideline which becomes a state standard pursuant to this chapter shall take effect in this state 30 days after it becomes effective as a federal guideline.

(b) Any person who will be adversely affected by adoption of the federal guideline in this state may, within the 30 days prior to its becoming effective as a standard in this state, file with the department, in writing, objections and a request for a hearing. The timely filing of substantial objections to the adoption of a federal guideline which has become effective as a state standard, stays the adoption of the federal guideline as a state standard in this state until the department conducts a hearing and decides the issue.

Article 4. Enforcement

19035. The department may revoke or suspend a certification for any of the following reasons:

(a) Any misstatement in the application or in any supplementary statement.

(b) Any condition revealed by the application, supplementary statement, report, record, or other evidence, which would warrant the department's refusal to grant a registration on an original application.

(c) A violation of any law relating to, or failure to observe any of the applicable terms or provisions of, registration, or any other

applicable rule, regulation, code, or order adopted pursuant to this section.

(d) Being discontinued or removed, or having the operating supervisor discontinued or removed, from the federal Environmental Protection Agency's Radon and Radon Progeny Measurement Proficiency Program or its Radon Contractors Program during the term of the certification.

19036. It is unlawful for an individual to function as a radon measurement laboratory, radon testing and consulting specialist, or a radon mitigation contractor in violation of this chapter. A violation of this chapter is a misdemeanor punishable by a fine of not more than one thousand dollars ($1,000).

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 620

An act to amend Sections 10004 and 10005 of, and to add Sections 10005.1 and 10005.2 to, the Water Code, relating to water.

[Approved by Governor October 6, 1991. Filed with Secretary of State October 8, 1991]

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

SECTION 1. Section 10004 of the Water Code is amended to read:

10004. (a) The plan for the orderly and coordinated control, protection, conservation, development, and utilization of the water resources of the state which is set forth and described in Bulletin No. 1 of the State Water Resources Board entitled "Water Resources of California," Bulletin No. 2 of the State Water Resources Board entitled, "Water Utilization and Requirements of California," and Bulletin No. 3 of the department entitled, "The California Water Plan," with any necessary amendments, supplements, and additions to the plan, shall be known as "The California Water Plan."

(b) (1) The department shall update The California Water Plan every five years. The department shall report the amendments, supplements, and additions included in the updates of The California Water Plan, together with a summary of the department's

conclusions and recommendations, to the Legislature in the session in which the updated plan is issued.

(2) The department shall release a preliminary draft of The California Water Plan, as updated, upon request, to interested persons and entities throughout the state for their review and comments. The department shall provide these persons and entities an opportunity to present written or oral comments on the preliminary draft. The department shall consider these comments in the preparation of the final publication of The California Water Plan, as updated.

SEC. 2. Section 10005 of the Water Code is amended to read:

10005. (a) It is hereby declared that the people of the state have a primary interest in the orderly and coordinated control, protection, conservation, development, and utilization of the water resources of the state by all individuals and entities and that it is the policy of the state that The California Water Plan, with any necessary amendments, supplements, and additions to the plan, is accepted as the master plan which guides the orderly and coordinated control, protection, conservation, development, management and efficient utilization of the water resources of the state.

(b) The declaration set forth in subdivision (a) does not constitute approval for the construction of specific projects or routes for transfer of water, or for financial assistance, by the state, without further legislative action, nor shall the declaration be construed as a prohibition of the development of the water resources of the state by any entity.

SEC. 3. Section 10005.1 is added to the Water Code, to read:

10005.1. The department or, at the department's request, the California Water Commission, shall conduct a series of hearings with interested persons, organizations, local, state, and federal agencies, and representatives of the diverse geographical areas and interests of the state.

SEC. 4. Section 10005.2 is added to the Water Code, to read:

10005.2. Prior to holding a hearing pursuant to Section 10005.1, the department shall give notice by mail of the hearing to persons and entities which have requested notice and have provided their name and address to the department.

CHAPTER 621

An act to amend Section 1363 of the Civil Code, relating to common interest developments.

[Approved by Governor October 6, 1991. Filed with Secretary of State October 8, 1991.]

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

SECTION 1. Section 1363 of the Civil Code is amended to read:

1363. (a) A common interest development shall be managed by an association which may be incorporated or unincorporated. Unless the governing documents provide otherwise, and regardless of whether the association is incorporated or unincorporated, the association may exercise the powers granted to a nonprofit mutual benefit corporation, as enumerated in Section 7140 of the Corporations Code, except that an unincorporated association may not adopt or use a corporate seal or issue membership certificates in accordance with Section 7313 of the Corporations Code. An association, whether incorporated or unincorporated, may exercise the powers granted to an association by Section 374 of the Code of Civil Procedure and the powers granted to the association in this title. The association may be referred to as a community association.

(b) An association, whether incorporated or unincorporated, shall prepare a budget pursuant to Section 1365 and disclose information, if requested, in accordance with Section 1368.

(c) Meetings of the membership of the association shall be conducted in accordance with a recognized system of parliamentary procedure or such parliamentary procedures as the association may adopt. Notwithstanding any other provision of law, notice of meetings of the members shall specify those matters the board intends to present for action by the members, but, except as otherwise provided by law, any proper matter may be presented at the meeting for action. Members of the association shall have access to association records in accordance with Article 3 (commencing with Section 8330) of Chapter 13 of Part 3 of Division 2 of Title 1 of the Corporations Code. Any member of the association may attend meetings of the board of directors of the association, except when the board adjourns to executive session to consider litigation, matters that relate to the formation of contracts with third parties, or personnel matters. Any matter discussed in executive session shall be generally noted in the minutes of the board of directors. In any matter relating to the discipline of an association member, the board of directors shall meet in executive session if requested by that member, and the member shall be entitled to attend the executive session. Whenever two or more associations have consolidated any of their functions under a joint neighborhood association or similar organization, members of each participating association shall be

entitled to attend all meetings of the joint association other than executive sessions, shall be given reasonable opportunity for participation in those meetings, and shall be entitled to the same access to the joint association's records as they are to the participating association's records.

(d) The minutes, minutes proposed for adoption that are marked to indicate draft status, or a summary of the minutes, of any meeting of the board of directors of an association, other than an executive session, shall be available to members within 30 days of the meeting. The minutes, proposed minutes, or summary minutes shall be distributed to any member of the association upon request and upon reimbursement of the association's costs in making that distribution.

Members of the association shall be notified in writing at the time that the pro forma budget required in Section 1365 is distributed or at the time of any general mailing to the entire membership of the association of their right to have copies of the minutes of meetings of the board of directors and how and where those minutes may be obtained.

CHAPTER 622

An act to amend Section 20205.81 of the Government Code, relating to public employees.

[Approved by Governor October 6, 1991. Filed with Secretary of State October 8, 1991]

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

SECTION 1. Section 20205.81 of the Government Code is amended to read:

20205.81. (a) The board may maintain not more than 1 percent of the book value of the assets of the system in small business venture capital.

(b) It is the intent of the Legislature that the majority of funds described in subdivision (a) be invested in firms based and operating in California.

(c) The board shall annually submit to the Legislature on or before December 1, a report on the effectiveness of meeting the goal established by this section. This report shall include the percentage of funds invested in California firms.

(d) This section shall remain in effect only until January 1, 1995, and as of that date is repealed, unless a later enacted statute, which is chaptered before January 1, 1995, deletes or extends that date.

CHAPTER 623

An act to amend Section 20017.79 of the Government Code, relating to the Public Employees' Retirement System, and making an appropriation therefor.

[Approved by Governor October 6, 1991. Filed with Secretary of State October 8, 1991.]

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

SECTION 1. Section 20017.79 of the Government Code is amended to read:

20017.79. "State safety member" shall also include officers and employees of the Board of Prison Terms, Department of Corrections, the Department of the Youth Authority, or the Prison Industry Authority in the following classifications:

Classification Code	Classification
0617	Industrial Superintendent, Prison Industries (agriculture)
0648	Industrial Supervisor, Prison Industries (crop farm)
0679	Assistant Industrial Superintendent, Prison Industries (agriculture)
0682	Industrial Supervisor, Prison Industries (dairy)
0683	Assistant Dairy Operator
2303	Supervisor of Correctional Education Programs
2370	Supervisor of Vocational Instruction
2384	Supervisor of Commercial Diver Training
2311	Youth Authority Teacher
2429	Vocational Instructor (fire science) (correctional facility)
2433	Vocational Instructor (heavy equipment repair) (correctional facility)
1575	Prison Canteen Manager I
1576	Prison Canteen Manager II
7158	Production Manager III, Prison Industries
7157	Production Manager II, Prison Industries (general)
7156	Production Manager I, Prison Industries
7154	Industrial Superintendent, Prison Industries (maintenance and repair)

7162	Product Engineering Technician, Prison Industries
7163	Production Manager II, Prison Industries (wood products)
7164	Production Manager II, Prison Industries (metal products)
7165	Production Manager II, Prison Industries (textile products)
7170	Industrial Superintendent, Prison Industries (detergent)
7172	Industrial Superintendent, Prison Industries (wood products)
7175	Assistant Industrial Superintendent, Prison Industries (wood products)
7178	Industrial Supervisor, Prison Industries (wood products)
7179	Industrial Supervisor, Prison Industries (upholstery)
7190	Industrial Superintendent, Prison Industries (metal products)
7189	Assistant Industrial Superintendent, Prison Industries (metal products)
7191	Industrial Supervisor, Prison Industries (metal fabrication)
7192	Industrial Supervisor, Prison Industries (tool and die)
7195	Industrial Superintendent, Prison Industries (fabric products)
7196	Industrial Superintendent, Prison Industries (mattress and bedding)
7198	Industrial Supervisor, Prison Industries (fabric products)
7201	Tobacco Factory Superintendent
7205	Industrial Superintendent, Prison Industries (shoe manufacturing)
7206	Industrial Supervisor, Prison Industries (shoes and boots, lasting to packing)
7207	Industrial Supervisor, Prison Industries (shoe manufacturing)
7209	Industrial Superintendent, Prison Industries (knitting mill)
7210	Industrial Supervisor, Prison Industries (knitting mill)
7211	Industrial Supervisor, Prison Industries (knit goods finishing)
7214	Industrial Superintendent, Prison Industries (printing)
7215	Industrial Supervisor, Prison Industries (maintenance and repair)

7216	Industrial Supervisor, Prison Industries (printing)
7218	Industrial Supervisor, Prison Industries (bindery)
2108	Industrial Superintendent, Prison Industries (laundry)
2109	Industrial Supervisor, Prison Industries (laundry)
8215	Senior Medical Technical Assistant
9908	Supervising Social Worker II, Youth Authority
9910	Supervising Social Worker I, Youth Authority
9911	Social Worker, Youth Authority
0716	Supervising Groundskeeper II (correctional facility)
0718	Lead Groundskeeper I (correctional facility)
0720	Lead Groundskeeper (correctional facility)
0743	Groundskeeper (correctional facility)
2004	Janitor Supervisor II (correctional facility)
2005	Janitor Supervisor I (correctional facility)
2006	Janitor (correctional facility)
2044	Supervising Housekeeper I (correctional facility)
2046	Housekeeper (correctional facility)
2068	Shoemaker (correctional facility)
2077	Seamer (correctional facility)
2080	Assistant Seamer (correctional facility)
2084	Barbershop Manager (correctional facility)
2086	Barber (correctional facility)
2111	Laundry Supervisor II (correctional facility)
2114	Laundry Supervisor I (correctional facility)
2117	Laundry Worker (correctional facility)
2120	Launderer (correctional facility)
2150	Food Manager (correctional facility)
2147	Food Administrator II (correctional facility)
2153	Food Administrator I (correctional facility)

2182	Supervising Cook II (correctional facility)
2183	Supervising Cook I (correctional facility)
2186	Cook II (correctional facility)
2187	Cook I (correctional facility)
2221	Baker II (correctional facility)
2224	Baker I (correctional facility)
2245	Butcher—Meat Cutter II (correctional facility)
2195	Food Service Worker II (correctional facility)
2196	Food Service Worker I (correctional facility)
2305	Supervisor of Academic Instruction (correctional facility)
2284	Teacher (arts and crafts) (correctional facility)
2285	Teacher (business education) (correctional facility)
2287	Teacher (elementary education) (correctional facility)
2290	Teacher (high school education) (correctional facility)
2297	Teacher (ethnic studies) (correctional facility)
2291	Teacher (home economics) (correctional facility)
2298	Teacher (librarian) (correctional facility)
2286	Teacher (cerebral palsied children) (correctional facility)
2295	Teacher (recreation and physical education) (correctional facility)
2294	Teacher (music) (correctional facility)
2371	Teacher (speech development and correction) (correctional facility)
2373	Teacher (hearing impaired) (correctional facility)
2292	Teacher (mentally retarded children) (correctional facility)
2288	Teacher (emotionally/learning handicapped) (correctional facility)
2289	Teacher (family life education) (correctional facility)
2423	Vocational Instructor (dog grooming and handling) (correctional facility)

2665	Vocational Instructor (powerplant mechanics) (correctional facility)
2387	Vocational Instructor (airframe mechanics) (correctional facility)
2396	Vocational Instructor (auto body and fender repair) (correctional facility)
2398	Vocational Instructor (auto mechanics) (correctional facility)
2399	Vocational Instructor (baking) (correctional facility)
2400	Vocational Instructor (bookbinding) (correctional facility)
2417	Vocational Instructor (carpentry) (correctional facility)
2420	Vocational Instructor (cosmetology) (correctional facility)
2422	Vocational Instructor (culinary arts) (correctional facility)
2628	Vocational Instructor (merchandising) (correctional facility)
2425	Vocational Instructor (drycleaning works) (correctional facility)
2426	Vocational Instructor (electrical work) (correctional facility)
2428	Vocational Instructor (electronics) (correctional facility)
2431	Vocational Instructor (furniture refinishing and repair) (correctional facility)
2432	Vocational Instructor (garment making) (correctional facility)
2597	Vocational Instructor (household appliance repair) (correctional facility)
2598	Vocational Instructor (industrial arts) (correctional facility)
2599	Vocational Instructor (instrument repair) (correctional facility)
2600	Vocational Instructor (janitorial service) (correctional facility)
2601	Vocational Instructor (landscape gardening) (correctional facility)
2611	Vocational Instructor (laundry work) (correctional facility)
2614	Vocational Instructor (machine shop practice) (correctional facility)
2615	Vocational Instructor (masonry) (correctional facility)

2619	Vocational Instructor (meat cutting) (correctional facility)
2627	Vocational Instructor (mechanical drawing) (correctional facility)
2630	Vocational Instructor (mill and cabinet work) (correctional facility)
2640	Vocational Instructor (offset printing) (correctional facility)
2644	Vocational Instructor (painting) (correctional facility)
2661	Vocational Instructor (plumbing) (correctional facility)
2666	Vocational Instructor (printing) (correctional facility)
2667	Vocational Instructor (radiologic technology) (correctional facility)
2668	Vocational Instructor (refrigeration and air-conditioning repair) (correctional facility)
2669	Vocational Instructor (sewing machine repair) (correctional facility)
2670	Vocational Instructor (sheet metal work) (correctional facility)
2671	Vocational Instructor (shoemaking) (correctional facility)
2672	Vocational Instructor (silk screening process) (correctional facility)
2673	Vocational Instructor (storekeeping and warehousing) (correctional facility)
2674	Vocational Instructor (office machine repair) (correctional facility)
2675	Vocational Instructor (upholstering) (correctional facility)
2419	Vocational Instructor (commercial diver training) (correctional facility)
2677	Vocational Instructor (welding) (correctional facility)
2676	Vocational Instructor (vocational nursing) (correctional facility)
2853	Vocational Instructor (animal husbandry) (correctional facility)
2854	Vocational Instructor (building maintenance) (correctional facility)
2855	Vocational Instructor (computer and related technologies) (correctional facility)

2856	Vocational Instructor (diesel mechanics) (correctional facility)
2857	Vocational Instructor (drywall installer/taper) (correctional facility)
2858	Vocational Instructor (floor cover layer) (correctional facility)
2847	Vocational Instructor (glazier) (correctional facility)
2848	Vocational Instructor (insulation installer, building and pipes) (correctional facility)
2849	Vocational Instructor (office services and related technologies) (correctional facility)
2850	Vocational Instructor (roofer) (correctional facility)
2851	Vocational Instructor (small engine repair) (correctional facility)
2945	Senior Librarian (correctional facility)
2952	Librarian (correctional facility)
6216	Building Maintenance Worker (correctional facility)
6221	Warehouse Worker (correctional facility)
1502	Warehouse Manager II (correctional facility)
1504	Warehouse Manager I (correctional facility)
1505	Materials and Stores Supervisor II (correctional facility)
1508	Materials and Stores Supervisor I (correctional facility)
6379	Heavy Truck Driver (correctional facility)
6382	Truck Driver (correctional facility)
6392	Automotive Equipment Operator II (correctional facility)
6394	Automotive Equipment Operator I (correctional facility)
6471	Carpenter III (correctional facility)
6483	Carpenter I (correctional facility)
6521	Painter III (correctional facility)
6524	Painter II (correctional facility)
6474	Carpenter II (correctional facility)
6528	Painter I (correctional facility)
6534	Electrician III (correctional facility)
6538	Electrician II (correctional facility)
6544	Electrician I (correctional facility)
6545	Plumber III (correctional facility)

6550	Plumber I (correctional facility)
6557	Steamfitter Supervisor (correctional facility)
6559	Steamfitter (correctional facility)
6617	Mason (correctional facility)
6941	Maintenance Mechanic (correctional facility)
6643	Locksmith I (correctional facility)
6699	Chief Engineer I (correctional facility)
6713	Stationary Engineer (correctional facility)
6718	Stationary Engineer Apprentice (four-year program) (correctional facility)
6715	Refrigeration Engineer (correctional facility)
6724	Water and Sewage Plant Supervisor (correctional facility)
6748	Chief of Plant Operation III (correctional facility)
6751	Chief of Plant Operation II (correctional facility)
6754	Chief of Plant Operation I (correctional facility)
6763	Supervisor of Building Trades (correctional facility)
6865	Equipment Maintenance Supervisor (correctional facility)
6867	Lead Automobile Mechanic (correctional facility)
6868	Automobile Mechanic (correctional facility)
6893	Automotive Pool Manager I (correctional facility)
6916	Electronics Technician (correctional facility)
8217	Medical Technical Assistant (correctional facility)
2645	Vocational Instructor (Plastering) (correctional facility)
7200	Dry Cleaning Plant Supervisor
6772	Utility Shops Supervisor (correctional facility)
6801	Machinist (correctional facility)
6826	Heavy Equipment Mechanic (correctional facility)

2688	Vocational Instructor (Eyewear Manufacturing) (correctional facility)
2940	Supervising Librarian (correctional facility)
6594	Plumber II (correctional facility)
7194	Assistant Industrial Superintendent, Prison Industries (fabric products)
7197	Industrial Supervisor, Prison Industries (mattress and bedding)
7217	Industrial Superintendent, Prison Industries (bindery)
6696	Chief Engineer II (correctional facility)
2000	Janitor Supervisor III (correctional facility)
6222	Laborer (correctional facility)
6955	Fusion Welder (correctional facility)
6211	Skilled Laborer (correctional facility)
2156	Assistant Food Manager (correctional facility)
4132	Construction Supervisor (correctional facility)
6628	Glazier (correctional facility)
7145	Quality Assurance Manager
7146	Chief, Quality Assurance
4110	Chief, Day Labor Programs (correctional facility)
4109	Construction Supervisor III (correctional facility)
4108	Construction Supervisor II (correctional facility)
4107	Construction Supervisor I (correctional facility)
2015	Chief Assistant General Manager, Prison Industries
4302	Assistant General Manager, Operations
7199	Pest Control Technician (correctional facility)
7208	Correctional Business Manager I, Department of Corrections
4744	Correctional Business Manager II, Department of Corrections
7204	Industrial Supervisor, Prison Industries (Dental Laboratory)
7321	Industrial Supervisor, Prison Industries (silkscreen)

7109	Assistant Industrial Superintendent, Prison Industries (Coffee Roasting and Grinding)
7203	Assistant Industrial Superintendent, Prison Industries (Dental Laboratory)
7350	Assistant Industrial Superintendent, Prison Industries (Egg Production)
7351	Assistant Industrial Superintendent, Prison Industries (Fiberglass Products)
7352	Assistant Industrial Superintendent, Prison Industries (Furniture Refurbishing)
7320	Assistant Industrial Superintendent, Prison Industries (Silkscreen)
7202	Industrial Superintendent, Prison Industries (Dental Laboratory)
7319	Industrial Superintendent, Prison Industries (Silkscreen)
2869	Vocational Instructor (Dental Technology) (correctional facility)
5415	Vocational Instructor (Telemarketing/Customer Service) (correctional facility)
1793	Property Controller I (correctional facility)
1794	Property Controller II (correctional facility)
4760	Procurement and Services Officer I (correctional facility)
4761	Procurement and Services Officer II (correctional Facility)
6303	Correctional Plant Supervisor, Department of Corrections
6304	Correctional Plant Manager I, Department of Corrections
6305	Correctional Plant Manager II, Department of Corrections

In addition, "state safety member" shall also include officers and employees of the Department of Corrections, the Department of the Youth Authority, or the Prison Industry Authority in any classification of vocational instructor, industrial supervisor, industrial superintendent, assistant industrial superintendent, or production manager II (prison industries) which is established on or after January 1, 1984, if the Department of Personnel Administration and the State Personnel Board approve the inclusion of the classification.

"State safety member" shall also include officers and employees in parenthetical specialty classes when the core class has already been

expressly included in the state safety membership category if the Department of Personnel Administration and the State Personnel Board approve the inclusion of the classifications. The inclusion shall not be effective until notice thereof has been received by the Board of Administration.

Any such officer or employee in employment on the operative date of an amendment to this section and who becomes a state safety member as a result of that amendment, may elect by a writing filed with the board prior to 90 days after notification by the board, to be restored to his or her previous status as a state industrial member. Upon the filing of such election the member shall cease to be a state safety member, and his or her rights and obligations shall be restored prospectively and retroactively to the operative date of that amendment.

CHAPTER 624

An act to amend Section 52324.6 of the Education Code, relating to regional occupational programs.

[Approved by Governor October 6, 1991 Filed with Secretary of State October 8, 1991.]

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

SECTION 1. Section 52324.6 of the Education Code is amended to read:

52324.6. (a) Any regional occupational program shall be eligible to apply for apportionments as a necessary small regional occupational program under this section if it is a regional occupational program with an annual total average daily attendance of 350 or less in the prior fiscal year, and the regional occupational program provides instructional service to a comprehensive high school or schools that have an average daily attendance in grades 9 to 12, inclusive, during the fiscal year of 350 or less.

A necessary small regional occupational program may apply for a small school regional occupational program service allocation pursuant to this section for any or all of the comprehensive high schools within its boundaries that have an average daily attendance of 350 or less during the fiscal year, and at which instruction is provided by the regional occupational program.

The county superintendents of schools shall annually certify the eligibility of a regional occupational program as a necessary small regional occupational program and annually certify the eligibility of all comprehensive high schools within the boundaries that have been selected by the necessary small regional occupational program to receive small school regional occupational program service allocations.

(b) The Superintendent of Public Instruction shall annually allocate small school regional occupational program service funding, in accordance with the schedule prescribed in this subdivision, for any and all comprehensive high schools that are certified as eligible and are selected in accordance with subdivision (a). Regional occupational programs that do not certify the employment of the minimum number of full-time equivalent certificated employees at each school shall have the total small school regional occupational program service allocation for that school reduced by a pro rata amount, based on the percentage of employee service provided in comparison to the total number of regional occupational program employees required for full funding. Full-time equivalency for purposes of this subdivision shall be equal to six teaching periods of comprehensive high school.

For the 1990–91 fiscal year, the necessary small school regional occupational program service allocation schedule is as follows:

Average daily attendance per eligible comprehensive high school within the necessary small ROP	Minimum number of full-time equivalent certificated ROP employees required for full funding of ROP service to each small school	Small school service allocation
0–50	0.50	$22,329
51–100	0.83	37,289
101–150	1.00	44,658
151–200	1.17	50,026
201–250	1.33	59,619
251–300	1.50	66,987
301–350	1.67	74,356

The small school regional occupational program service allocation shall be adjusted annually by the same percentage cost-of-living adjustment applied to other regional occupational center and program revenue limits.

(c) (1) If a regional occupational program applies for funding under this section, the regional occupational program shall certify to the Superintendent of Public Instruction all concurrently enrolled average daily attendance generated during the previous year in each school to which small school regional occupational program service funds were allocated under subdivision (b). The average daily attendance certified under this subdivision shall be subtracted from the regional occupational program's prior year total allowable average daily attendance, and the remainder shall become the current year allowable regional occupational program average daily attendance for all nonconcurrently enrolled students and concurrently enrolled students from schools not funded under subdivision (b). This calculation shall be completed the year a

regional occupational program applies to become a necessary small regional occupational program or the year that the eligible regional occupational program selects any comprehensive high school defined in subdivision (a) to receive a small school regional occupational program service allocation.

(2) In the fiscal year that an eligible regional occupational program selects to remove a certified comprehensive high school from the small school regional occupational program service allocation funding or when the comprehensive high school no longer qualifies under the provisions of subdivision (a), the superintendent shall allocate a sum equal to the average of the prior two years' annual regional occupational program average daily attendance for the comprehensive high school multiplied by either the statewide average revenue limit per average daily attendance or the revenue limit per average daily attendance of the regional occupational program, whichever is greater, to the revenue limit of the eligible regional occupational program.

(3) In addition, the superintendent shall raise the prior year's annual concurrently enrolled average daily attendance for all schools not funded under subdivision (b) of the eligible small school regional occupational program an amount equal to the average of the prior two years' annual regional occupational program average daily attendance for the comprehensive high school. This adjusted allowable average daily attendance shall be the new base upon which growth is calculated for nonconcurrently enrolled students and concurrently enrolled students from high schools not funded under subdivision (b), within an eligible regional occupational program.

(d) Total annual apportionments for regional occupational programs that qualify for funding under this section as necessary small regional occupational programs shall be calculated in accordance with the following formula:

Total small school ROP service allocations to selected comprehensive high schools of 350 or less average daily attendance pursuant to subdivision (b)	+	Reported allowable average daily attendance pursuant to subdivision (c) multiplied by either the statewide average ROP revenue limit or the ROP revenue limit, whichever is greater	=	Total annual state apportionment for a necessary small ROP

(e) Nothing in this section shall be construed to require eligible regional occupational programs to apply for funding under this section.

(f) In fiscal years subsequent to the 1989–90 fiscal year, the prior year's apportionment under this section shall be annually adjusted by the same cost-of-living increase provided to regional occupational

programs through the standard apportionment system.

(g) Notwithstanding any other provision of law, the amount specified by Section 2 of Chapter 1538 of the Statutes of 1985 shall be used to fund the difference between the amount authorized pursuant to this section on January 1, 1986, and the amount authorized pursuant to Provision 2 of Item 6100-102-001 of the Budget Act of 1985.

CHAPTER 625

An act to amend Section 4 of Chapter 1266 of the Statutes of 1982, and to amend Section 8 of Chapter 1309 of the Statutes of 1990, relating to state real property.

[Approved by Governor October 6, 1991. Filed with Secretary of State October 8, 1991]

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

SECTION 1. The Director of General Services, with the approval of the State Public Works Board, may sell, exchange, or lease for current market value or for any lesser consideration authorized by law and upon those terms and conditions and subject to those reservations and exceptions as the Director of General Services determines are in the best interest of the state, all or any part of the following real property:

Parcel 1. Approximately 2.22 acres of land originally purchased for a forest fire station site located in the E. L. Mayberry and W. F. Whittier Subdivision, San Bernardino County.

SEC. 2. The Director of General Services, with the approval of the State Public Works Board, may sell, exchange, or lease for current market value or for any lesser consideration authorized by law and upon those terms and conditions and subject to those reservations and exceptions as the Director of General Services determines are in the best interest of the state, all or any part of the following real property:

Parcel 1. Approximately 0.95 acre, with a structure used as a field office by the California Highway Patrol at 25111 The Old Road, Newhall, Los Angeles County.

Parcel 2. Approximately 0.92 acre, with a structure used as a field office by the California Highway Patrol at 60 North Highland Springs Avenue, Banning, Riverside County.

Parcel 3. Approximately 3.13 acres, with a structure used as a field office by the California Highway Patrol at 1382 West Olive Avenue, Fresno, Fresno County.

Parcel 4. Approximately 1.08 acres, with a structure used as a field office by the California Highway Patrol at 11050 13th Avenue, Hanford, Kings County.

Parcel 5. Approximately 0.95 acre, with a structure used as a field office by the California Highway Patrol at 79-500 Varner Road, Indio, Riverside County.

Parcel 6. Approximately 1.92 acres, with a structure used as a field office by the California Highway Patrol at 1800 East Childs Avenue, Merced, Merced County.

Parcel 7. Approximately 0.73 acre, with a structure used as a field office by the California Highway Patrol at Navahoe Road at Highway 50, Meyers, South Lake Tahoe, El Dorado County.

Parcel 8. Approximately 0.61 acre, with a structure used as a field office by the California Highway Patrol at 861 West Morton Avenue, Porterville, Tulare County.

Parcel 9. Approximately 1.43 acres, with a structure used as a field office by the California Highway Patrol at 2031 East Santa Clara Avenue, Santa Ana, Orange County.

Parcel 10. Approximately 0.94 acre, with a structure used as a field office by the California Highway Patrol at 19055 Portola Drive, Salinas, Monterey County.

Parcel 11. Approximately 1.64 acres, with a structure used as a field office by the California Highway Patrol at 10077 State Route 89 South, Truckee, Nevada County.

Parcel 12. Approximately 1.1 acres, with a structure used by the Department of Motor Vehicles, located at 222 Harding Boulevard, Roseville, Placer County.

Parcel 13. Approximately 1.3 acres, with a structure used by the Department of Motor Vehicles, located at 615 Locust Street, Redding, Shasta County.

SEC. 3. The Director of General Services, with the approval of the State Public Works Board, may sell or lease for current market value only, all or any part of the following property:

Parcel 1. Approximately 2.01 acres, with a structure used by the Employment Development Department, located at 4546 West Century, Inglewood, Los Angeles County.

Parcel 2. Approximately 1.07 acres, with a structure used by the Employment Development Department, located at 1313 Pine Avenue, Long Beach, Los Angeles County.

Parcel 3. Approximately 0.43 acre, with a structure used by the Employment Development Department, located at 660 Tule Street, Mendota, Fresno County.

Parcel 4. Approximately 1.1 acres, with a structure used by the Employment Development Department, located at 480 Mountain View Avenue, San Bernardino, San Bernardino County.

Parcel 5. Approximately 0.18 acre, with a structure used by the Employment Development Department, located at 500 North Garden, Visalia, Tulare County.

Parcel 6. Approximately 1.46 acres, with a structure used by the Employment Development Department, located at 100 North Imperial Avenue, El Centro, Imperial County.

Parcel 7. Approximately 0.63 acre, with a structure used by the

Employment Development Department, located at 240 West 7th Street, Chico, Butte County.

Parcel 8. Approximately 1.17 acres, with a structure used by the Employment Development Department, located at 346 Front Street, Salinas, Monterey County.

Parcel 9. Approximately 0.85 acre with a structure used by the Employment Development Department, located at 805 R Street, Sacramento, Sacramento County.

SEC. 4. The Director of General Services, with the approval of the State Public Works Board and the Director of Parks and Recreation, may sell or exchange for current market value, upon those terms and conditions and with such reservations and exceptions as the Director of General Services determines are in the best interest of the state, all or any part of the following real property:

Parcel 1. Approximately 1.00 acre of land in the Lakes Earl and Talawa Project, located at 7400 Lower Lake Road, Crescent City, Del Norte County.

SEC. 5. The Director of General Services, with the approval of the State Public Works Board and the Director of Corrections, may transfer to the County of Madera, for public road purposes, approximately 26.29 acres in 20 parcels, with road improvements known as Avenue 24 and Road 22, being a portion of the Central California Women's Facility, Madera, that were acquired pursuant to a joint powers agreement between the county and the Department of Corrections, upon those terms and conditions and subject to those reservations and exceptions as the Director of General Services determines are in the best interest of the state.

SEC. 6. (a) Notice of every public auction or bid opening shall be posted on the property to be sold under this act and shall be published in a newspaper of general circulation published in the county in which the real property to be sold is situated.

(b) Any sale, exchange, or lease of the parcels described in this act are exempt from Chapters 3 (commencing with Section 21100) to 6 (commencing with Section 21165), inclusive, of Division 13 of the Public Resources Code.

SEC. 7. (a) The Department of General Services shall be reimbursed for any cost or expense incurred in the disposition of any parcels, subject to appropriation therefor by the Legislature, from the proceeds of that disposition.

(b) After deducting the amount necessary for the purposes of subdivision (a), the net proceeds of any moneys received from the disposition of the parcels described in this act shall be deposited as follows:

(1) The net proceeds of any moneys received from the disposition of parcels described in Sections 1 and 5 shall be deposited in the General Fund.

(2) The net proceeds of any moneys received from the disposition of parcels described in Section 2 shall be deposited in the Motor Vehicle Account in the State Transportation Fund.

(3) The net proceeds of any moneys received from the disposition of parcels described in Section 3 shall be deposited in the Employment Development Department Building Fund.

(4) The net proceeds of any moneys received from the disposition of parcels described in Section 4 shall be deposited in the 1976 Bond Fund.

SEC. 8. As to any property sold pursuant to this act consisting of 15 acres or less, the Director of General Services shall except and reserve to the state all mineral deposits, as defined in Section 6407 of the Public Resources Code, below a depth of 500 feet, without surface rights of entry. As to property sold pursuant to this act consisting of more than 15 acres, the Director of General Services shall except and reserve to the state all mineral deposits, as defined in Section 6407 of the Public Resources Code, together with the rights to prospect for, mine, and remove the deposits. The rights to prospect for, mine, and remove the deposits shall be limited to those areas of the property conveyed which the director, after consultation with the State Lands Commission, determines to be reasonably necessary for the removal of the deposits.

SEC. 9. Section 4 of Chapter 1266 of the Statutes of 1982 is amended to read:

Sec. 4. The Director of General Services, with the approval of the State Public Works Board and the Director of Parks and Recreation, is hereby authorized to exchange, or to sell for current market value, upon those terms, conditions and with such reservation and exceptions which in his or her opinion may be in the best interest of the state, all or part of the following described property:

Parcel 1. Approximately 0.85 acre of land being a portion of the Tahoe State Recreation Area, located approximately one mile northeasterly of Tahoe City at Star Harbor in the County of Placer.

Parcel 3. Approximately 4 acres located on the west side of Sand Dunes Drive, at various locations within Blocks 1, 2, 5, and 6, Hot Springs Tract Map Number 2, in the City of Sand City, County of Monterey, being a portion of South Monterey Dunes State Beach.

Parcel 4. Approximately 0.80 acre of land being a portion of South Carlsbad State Beach, located off Highway 1 in the County of San Diego.

SEC. 10. Section 8 of Chapter 1309 of the Statutes of 1990 is amended to read:

Sec. 8. (a) The Department of General Services shall be reimbursed for any cost or expense incurred in the disposition of any parcels, subject to appropriation therefor by the Legislature, from the proceeds of that disposition.

(b) After deducting the amount necessary for the purposes of subdivision (a), the net proceeds of any moneys received from the disposition of the parcels described in this act shall be deposited in the General Fund, except as follows:

(1) The net proceeds of any moneys received from the disposition of Parcel 2 described in Section 5 of this act shall be deposited in the

State Transportation Fund.

(2) The net proceeds of any moneys received from the disposition of Parcels 1, 2, 3, and 4 of Section 6 of this act shall be deposited in the Employment Development Department Building Fund.

(3) The proceeds of any money received from the exchange of the parcel described in Section 10 of this act shall be deposited into the State Park and Recreation Fund and shall be available for appropriation for state park purposes.

(4) The proceeds from the lease of the parcel described in Section 11 of this act shall be deposited into the Low Level Radioactive Waste Disposal Fund.

CHAPTER 626

An act to amend Section 67300 of, and to add Sections 67302 and 67303 to, the Education Code, relating to education.

[Approved by Governor October 6, 1991. Filed with Secretary of State October 8, 1991.]

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

SECTION 1. Section 67300 of the Education Code is amended to read:

67300. Services for disabled students provided by the California Community Colleges and the California State University shall, and services provided for the University of California may, at a minimum, conform to the level and quality of those services provided by the Department of Rehabilitation to its clients prior to July 1, 1981. However, nothing in this chapter requires the California Community Colleges, the California State University, or the University of California to provide the services for disabled students in the same manner as those services were provided by the Department of Rehabilitation.

The Board of Governors of the California Community Colleges and the Trustees of the California State University shall, for their respective systems, and the Regents of the University of California may, by January 15, 1982, adopt regulations to implement this chapter.

Notwithstanding any other provision of this section or Section 67301, blind students who are attending California Community Colleges under the sponsorship of the Department of Rehabilitation shall have all reader services provided directly by the Department of Rehabilitation. Reader services provided by the Department of Rehabilitation pursuant to this section shall be furnished in accordance with federal and state law. The Department of Rehabilitation shall seek federal funds for the provision of readers to blind students pursuant to this section.

SEC. 2. Section 67302 is added to the Education Code, to read:

67302. (a) California State University systemwide policy governing the provision of services to students with disabilities shall include a requirement that Disabled Student Services (DSS) directors maintain a list of readers who meet certain standards. These standards shall include some college education, a 3.0 grade point average, or the possession of equivalent skills. It is expected that most students will select a reader from this list.

(b) In addition, systemwide policy shall require that students and readers meet in a mutually agreeable public facility, either on campus or off campus, as appropriate to the student's coursework and consistent with campus policy. Requests for, and explanation of, the need for exceptions to this regulation shall be made in writing by a student on a standardized form developed by the California State University and maintained on file.

(c) Students who prefer a reader not on the campus list or prefer alternative locations for services mutually agreed to by the reader and the student, shall file written requests on a standardized form provided by the DSS director, or his or her designee, and developed by the California State University, to be maintained on file.

(d) At the beginning of each term, students shall receive a notice informing them of the option to choose a reader not on the list and to choose a location for receiving reader services in a nonpublic facility. The notice shall be signed by both the student and the DSS director, or his or her designee, and shall be maintained on file.

SEC. 3. Section 67303 is added to the Education Code, to read:

67303. Reader services for students with disabilities attending the California State University shall be provided for required reading not readily available on tape, handouts, and materials necessary for the required research papers. The number of reader hours provided shall be determined by the appropriate DSS staff person, in consultation with the student, and based on the volume of materials to be read. While the desirable number of hours to be available is, at a minimum, 1.5 hours of reader service per unit per week, the final number of reader services to be provided is dependent upon the student courseload, the individual student's need, and available campus funds.

CHAPTER 627

An act to amend Section 25283.5 of the Health and Safety Code, relating to hazardous substances.

[Approved by Governor October 6, 1991. Filed with Secretary of State October 8, 1991.]

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

SECTION 1. Section 25283.5 of the Health and Safety Code is amended to read:

25283.5. An underground storage tank which meets all of the following criteria is exempt from the requirements of this chapter:

(a) All exterior surfaces of the tank, including connected piping, and the floor directly beneath the tank, can be monitored by direct viewing.

(b) The structure in which the tank is located is constructed in such a manner that the structure provides for secondary containment of the contents of the tank, as determined by the local agency designated pursuant to Section 25283.

(c) The owner or operator of the underground storage tank conducts daily inspections of the tank and maintains a log of inspection results for review by the local agency, designated pursuant to Section 25283, as requested by the local agency.

(d) The local agency designated pursuant to Section 25283 determines without objection from the board that the underground storage tank meets requirements which are equal to or more stringent than those imposed by this chapter.

CHAPTER 628

An act to repeal Chapter 1651 of the Statutes of 1990, relating to transportation, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 6, 1991 Filed with Secretary of State October 8, 1991]

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

SECTION 1. Chapter 1651 of the Statutes of 1990 is repealed.

SEC. 2. (a) If funds are available pursuant to Section 4 of this act, the Department of General Services, in coordination with the Department of Transportation, shall conduct a one-year pilot project utilizing the process of telecommuting as an alternative to commuting between home and work for employees in private industry and federal, state, and local government employees (1)

between the Counties of Orange and Riverside, (2) between the Interstate 15 high desert corridor and the San Bernardino Valley area, and (3) between San Bernardino County and Los Angeles and Orange Counties. Within San Bernardino County more than one telecommuting center may be necessary to fulfill the purposes of this act.

(b) The Department of General Services shall enter into contracts with the Riverside County Transportation Commission and the San Bernardino Associated Governments to implement the project, and shall allocate funds appropriated to the department for the purposes of this act pursuant to the terms of those agreements. Both the Riverside County Transportation Commission and the San Bernardino Associated Governments may enter into separate contracts with private or public entities to implement all or a portion of the project.

(c) The Department of General Services, in cooperation with the Department of Transportation, shall report on its experiences under the pilot project, together with its recommendations, to the Legislature on or before January 1, 1993. The Riverside County Transportation Commission and the San Bernardino Associated Governments shall be responsible either to prepare the report or to oversee the preparation of the report with respect to the projects implemented within their jurisdictions. The report shall be reviewed and accepted by the Department of General Services prior to submission to the Legislature.

(d) The report required by subdivision (c) shall include, but not be limited to, a program evaluation, financial statement, and comments of participants in the pilot project, and shall address other relevant issues as outlined in the contract between the Department of General Services and the counties. The program evaluation shall include specific data on the number of participants, frequency of use by each participant and the average daily use of any telecommuting center established as a result of this act, an estimate of the number of commute trips reduced as a result of this pilot project, and a projection of the number of commute trips that could be avoided if this program were extended for five years. The financial statement shall detail the costs of implementing this pilot project and compare the costs of the pilot project to the costs of traffic controls that would otherwise be necessary to accommodate the level of traffic which the program evaluation estimates could be diverted within five years if the pilot project were continued. The pilot project shall be considered a success if the number of normal commute trips diverted to telecommuting is cost-effective when compared to the alternative of constructing traffic controls necessary to reduce the same number of commute trips diverted to telecommuting under the pilot project on an average daily usage basis.

SEC. 3. For purposes of this act, "telecommuting" means the partial or total substitution of the use of computers or telecommunication technologies, or both, for work related activities

which would otherwise require employees to commute to work.

SEC. 4. (a) The funds appropriated to the Department of General Services by Section 3 of Chapter 1651 of the Statutes of 1990, are hereby reappropriated to the department for the purposes of Section 2 of this act. Of the amount so appropriated, one hundred thousand dollars ($100,000) shall be allocated to the Riverside County Transportation Commission and one hundred thousand dollars ($100,000) shall be allocated to the San Bernardino Associated Governments to be expended for purposes of Section 2 of this act, subject to the following conditions:

(1) Funds for the Riverside County Transportation Commission shall not be encumbered until that commission adopts a resolution which guarantees the appropriation of not less than one hundred thousand dollars ($100,000) from the commission for the project, and which guarantees that not less than one hundred thousand dollars ($100,000), in cash or in-kind contributions, will be obtained for the project from private industry. In-kind contributions include, but are not limited to, office space, office furniture and supplies, and computer and other equipment, and shall be valued at the fair market value for those items. If less than one hundred thousand dollars ($100,000) in contributions from private industry are obtained, the Riverside County Transportation Commission shall appropriate from other funds available to it an amount for the project equal to the difference between one hundred thousand dollars ($100,000) and the value of the contributions received.

(2) Funds for the San Bernardino Associated Governments shall not be encumbered until the San Bernardino Associated Governments adopts a resolution which guarantees the appropriation of not less than one hundred thousand dollars ($100,000) from the associated governments for the project, and which guarantees that not less than one hundred thousand dollars ($100,000), in cash or in-kind contributions, will be obtained for the project from private industry. In-kind contributions include, but are not limited to, office space, office furniture and supplies, and computer and other equipment, and shall be valued at the fair market value for those items. If less than one hundred thousand dollars ($100,000) in contributions from private industry are obtained, the San Bernardino Associated Governments shall appropriate from other funds available to it an amount for the project equal to the difference between one hundred thousand dollars ($100,000) and the value of the contributions received.

(b) Any funds expended for the telecommuting project on or after January 1, 1991, by the Riverside County Transportation Commission or the San Bernardino Associated Governments, or from contributions received from private industry, prior to the actual receipt of federal trust funds, shall be counted towards the contributions required by this section.

SEC. 5. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within

the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order that the telecommuting demonstration project which was initiated pursuant to Chapter 1651 of the Statutes of 1990 may be carried on without interruption, it is necessary for this act to take effect immediately.

CHAPTER 629

An act to amend Sections 1646.1 and 1647.2 of, and to add Article 2.4 (commencing with Section 1638) to Chapter 4 of Division 2 of the Business and Professions Code, relating to dentistry, and making an appropriation therefor.

[Approved by Governor October 6, 1991. Filed with Secretary of State October 8, 1991.]

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

SECTION 1. Article 2.4 (commencing with Section 1638) is added to Chapter 4 of Division 2 of the Business and Professions Code, to read:

Article 2.4. Oral and Maxillofacial Surgery

1638. (a) For purposes of this article, "oral and maxillofacial surgery" means the diagnosis and surgical and adjunctive treatment of diseases, injuries, and defects which involve both functional and esthetic aspects of the hard and soft tissues of the oral and maxillofacial region.

(b) Any person licensed under the Medical Practice Act (Chapter 5 (commencing with Section 2000)) as a physician and surgeon who possesses, or possessed, a license to practice dentistry in another state, but is not licensed to practice dentistry under this chapter may apply to the board on a form prescribed by the board for an oral and maxillofacial surgery permit.

(c) The board may issue an oral and maxillofacial surgery permit to an applicant who has furnished evidence satisfactory to the board that he or she is currently certified or eligible for certification in oral and maxillofacial surgery by a specialty board recognized by the Commission on Accreditation of the American Dental Association and holds a current license in good standing to practice medicine in the state.

(d) An application shall be accompanied by an application fee of one hundred fifty dollars ($150) and two classifiable sets of fingerprints on forms provided by the board.

1638.3. (a) The fee to renew an oral and maxillofacial surgery permit shall be the same as that for renewal of a dental license as

determined under Section 1724.

(b) Every provision of this chapter applicable to a person licensed to practice dentistry shall apply to a person to whom a special permit is issued under this article.

1638.5. An oral and maxillofacial surgery permit shall be automatically suspended for any period of time during which the holder does not possess a current valid license to practice medicine in this state.

SEC. 2. Section 1646.1 of the Business and Professions Code is amended to read:

1646.1. (a) No dentist shall administer or order the administration of general anesthesia on an outpatient basis for dental patients unless the dentist either possesses a current license in good standing to practice dentistry in this state and holds a valid general anesthesia permit issued by the board or possesses a current permit under Section 1638 or 1640 and holds a valid general anesthesia permit issued by the board.

(b) No dentist shall order the administration of general anesthesia unless the dentist is physically within the dental office at the time of the administration.

(c) A general anesthesia permit shall expire on the date provided in Section 1715 which next occurs after its issuance, unless it is renewed as provided in this article.

(d) This article does not apply to the administration of local anesthesia or to conscious-patient sedation.

SEC. 3. Section 1647.2 of the Business and Professions Code is amended to read:

1647.2. (a) On and after January 1, 1992, no dentist shall administer or order the administration of, conscious sedation on an outpatient basis for dental patients unless one of the following conditions is met:

(1) The dentist possesses a current license in good standing to practice dentistry in California and either holds a valid general anesthesia permit or obtains a permit issued by the board authorizing the dentist to administer conscious sedation.

(2) The dentist possesses a current permit under Section 1638 or 1640 and either holds a valid anesthesia permit or obtains a permit issued by the board authorizing the dentist to administer conscious sedation.

(b) A conscious sedation permit shall expire on the date specified in Section 1715 which next occurs after its issuance, unless it is renewed as provided in this article.

(c) This article shall not apply to the administration of local anesthesia or to general anesthesia.

(d) A dentist who orders the administration of conscious sedation shall be physically present in the treatment facility while the patient is sedated.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for those

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

CHAPTER 630

An act to amend Sections 4463 and 42001.5 of the Vehicle Code, relating to vehicles.

[Approved by Governor October 6, 1991. Filed with Secretary of State October 8, 1991.]

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

SECTION 1. Section 4463 of the Vehicle Code is amended to read:

4463. (a) Every person who, with intent to prejudice, damage, or defraud, commits any of the following acts is guilty of a felony and upon conviction thereof shall be punished by imprisonment in the state prison for 16 months, two or three years, or by imprisonment in the county jail for not more than one year:

(1) Alters, forges, counterfeits, or falsifies any certificate of ownership, registration card, certificate, license, license plate, device issued pursuant to Section 4853, special plate, or permit provided for by this code or any comparable certificate of ownership, registration card, certificate, license, license plate, device comparable to that issued pursuant to Section 4853, special plate, or permit provided for by any foreign jurisdiction, or alters, forges, counterfeits, or falsifies any such document, device, or plate with intent to represent it as issued by the department, or alters, forges, counterfeits, or falsifies with fraudulent intent any endorsement of transfer on a certificate of ownership or other document evidencing ownership, or with fraudulent intent displays or causes or permits to be displayed or have in his or her possession any blank, incomplete, canceled, suspended, revoked, altered, forged, counterfeit, or false certificate of ownership, registration card, certificate, license, license plate, device issued pursuant to Section 4853, special plate, or permit.

(2) Utters, publishes, passes, or attempts to pass, as true and genuine, any false, altered, forged, or counterfeited matter listed in subdivision (a) knowing it to be false, altered, forged, or counterfeited.

(b) Every person who, with intent to prejudice, damage, or defraud, commits any of the following acts is guilty of a misdemeanor, and upon conviction thereof shall be punished by imprisonment in the county jail for six months or by a fine of not less than five hundred dollars ($500) or more than one thousand dollars ($1,000), or by both that fine and imprisonment, which penalty shall

not be suspended:

(1) Forges, counterfeits, or falsifies any disabled person placard or any comparable placard relating to parking privileges for disabled persons provided for by any foreign jurisdiction, or forges, counterfeits, or falsifies any disabled person placard with intent to represent it as issued by the department.

(2) Passes, or attempts to pass, as true and genuine, any false, forged, or counterfeit disabled person placard knowing it to be false, forged, or counterfeited.

(3) Acquires, possesses, sells, or offers for sale a genuine or counterfeit disabled person placard.

(c) Every person who, with fraudulent intent, displays or causes or permits to be displayed any forged, counterfeit, or false disabled person placard, is guilty of a misdemeanor, and upon conviction thereof shall be punished by imprisonment in the county jail for six months or by a fine of not less than five hundred dollars ($500) or more than one thousand dollars ($1,000), or by both that fine and imprisonment, which penalty shall not be suspended.

(d) No person shall lend any disabled person placard issued to him or her, nor shall any person knowingly permit its use by one not entitled to it. A disabled person placard holder may permit another person to use the placard for the purpose of transporting the disabled person for whom the placard was issued. A violation of this subdivision is a misdemeanor.

(e) For purposes of subdivision (b), (c), or (d), "disabled person placard" means a placard issued pursuant to Section 22511.5 or 22511.9.

SEC. 2. Section 42001.5 of the Vehicle Code is amended to read:

42001.5. Every person convicted of an infraction for a violation of Section 22507.8 shall be punished by a fine of not less than one hundred dollars ($100). No part of any fine imposed shall be suspended, except that the court may suspend the imposition of the fine if the person convicted possessed at the time of the offense, but failed to display, a valid distinguishing license plate or placard issued pursuant to Section 22511.5. The fine may be paid in installments if the court determines that the defendant is unable to pay the entire amount in one payment.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 631

An act to amend Section 7679 of the Public Utilities Code, relating to public utilities.

[Approved by Governor October 6, 1991. Filed with Secretary of State October 8, 1991.]

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

SECTION 1. Section 7679 of the Public Utilities Code is amended to read:

7679. Any person employed upon any railroad as engineer, conductor, baggage-master, brakeman, switchman, fireman, bridge-tender, flagman, or signalman, or having charge of the regulation or running of trains upon any railroad, in any manner whatever, who either becomes or is intoxicated or who is impaired due to the unlawful use of a controlled substance while engaged in the discharge of his duties, is guilty of a misdemeanor. If any person so employed does any act or neglects any duty, by reason of such intoxication or illegal drug use, which act or neglect causes the death of, or bodily injury to, any person or persons, that person so employed is guilty of a felony.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 632

An act to amend Section 7031 of the Business and Professions Code, relating to consumer affairs.

[Approved by Governor October 6, 1991 Filed with Secretary of State October 8, 1991.]

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

SECTION 1. Section 7031 of the Business and Professions Code is amended to read:

7031. (a) Except as provided in subdivision (d), no person engaged in the business or acting in the capacity of a contractor, may

bring or maintain any action, or recover in law or equity in any action, in any court of this state for the collection of compensation for the performance of any act or contract for which a license is required by this chapter without alleging and proving that he or she was a duly licensed contractor at all times during the performance of that act or contract, regardless of the merits of the cause of action brought by the person, except that this prohibition shall not apply to contractors who are each individually licensed under this chapter but who fail to comply with Section 7029.

(b) A security interest taken to secure any payment for the performance of any act or contract for which a license is required by this chapter is unenforceable if the person performing the act or contract was not a duly licensed contractor at all times during the performance of the act or contract.

(c) Proof of licensure pursuant to this section shall be made by production of a verified certificate of licensure from the Contractors' State License Board which establishes that the individual or entity bringing the action was duly licensed in the proper classification of contractors at all times during the performance of any act or contract covered by the action.

(d) The judicial doctrine of substantial compliance shall not apply to this section, except that a court may determine that there has been substantial compliance with licensure requirements, for purposes of this section, if it is shown at an evidentiary hearing that the person was a duly licensed contractor during any portion of the 90 days immediately preceding the performance of the act or contract for which compensation is sought, that the persons's category of licensure would have authorized the performance of that act or contract, and that noncompliance with the licensure requirement was the result of (1) inadvertent clerical error, or (2) other error or delay not caused by the negligence of the person. Subdivision (b) of Section 143 does not apply to contractors subject to this subdivision.

(e) The exceptions to the prohibition against the application of the judicial doctrine of substantial compliance found in subdivision (d) shall have no retroactive effect. These exceptions to that prohibition shall only apply to an action or arbitration proceeding, at law or in equity, that is commenced after the effective date of this section.

CHAPTER 633

An act to amend Section 4358 of, and to add Section 4354.5 to, the Public Utilities Code, relating to gas distribution systems, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 6, 1991. Filed with Secretary of State October 8, 1991.]

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

SECTION 1. Section 4354.5 is added to the Public Utilities Code, to read:

4354.5. (a) Every operator shall maintain all of the following:

(1) A map, drawing, or diagram which indicates the location of the distribution system's main and service lines, master-meter, and the identity of key valves.

(2) A copy of each annual report which has been submitted pursuant to the federal law or this chapter.

(3) A copy of any record of leak surveys and repairs, corrosion control, and cathodic protection of the system.

(b) The information and records listed in subdivision (a) shall be provided to any subsequent operator of the distribution system upon the sale, transfer, or other conveyance of title to the mobilehome park.

(c) Notwithstanding any other provision of law, there shall be no penalty pursuant to Section 4357 imposed upon a subsequent operator of the distribution system who has not received the information and records listed in subdivision (a) from the transferring operator or upon any operator who fails to have the information and records for any period on or before the effective date of this section.

SEC. 2. Section 4358 of the Public Utilities Code is amended to read:

4358. (a) The commission shall establish a uniform billing per space or lot surcharge to be paid by operators with distribution systems subject to this chapter on natural gas purchased for distribution to their tenants. The surcharge shall be designed to recover the commission's costs of the mobilehome park safety inspection and enforcement program required by this chapter.

(b) The commission shall require gas corporations to adjust their rates on an annual basis to recover the surcharge specified in subdivision (a). Mobilehome parks which are served by publicly owned public utilities shall be inspected at the request of the serving utility. However, publicly owned public utilities which serve mobilehome parks subject to this chapter shall only be required to adjust their gas rates to recover the surcharge specified in subdivision (a) when a mobilehome park within the utility's jurisdiction is inspected.

(c) Notwithstanding any other provision of law or local ordinance, rule, regulation, or initiative measure, the operator shall be entitled to recover the surcharge collected pursuant to subdivision (a) from its tenants on a monthly basis. However, the charge to any tenant shall not exceed 30 cents per month for the period from July 1, 1991, until July 1, 1992, and shall not exceed 25 cents per month after that date. If the commission establishes the surcharge at a lesser amount, the operator's recovery shall not exceed the actual surcharge.

(d) All surcharge fees collected by gas corporations pursuant to this section shall be forwarded to the commission, as required by the commission. All surcharge fees collected pursuant to this section shall be deposited in the Public Utilities Commission Utilities Reimbursement Account in the General Fund, which fees shall be used, upon appropriation, for purposes of this chapter.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

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

In order to provide clarity to the law which was enacted in 1990 implementing a statewide mandatory inspection program for gas distribution systems in mobilehome parks, which program takes effect on July 1, 1991, it is necessary that this act take effect immediately.

CHAPTER 634

An act to amend Section 3 of Chapter 1560 of the Statutes of 1984, relating to parks and recreation.

[Approved by Governor October 6, 1991. Filed with Secretary of State October 8, 1991.]

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

SECTION 1. Section 3 of Chapter 1560 of the Statutes of 1984 is amended to read:

Sec. 3. The sum of two hundred thousand dollars ($200,000) is hereby appropriated from the General Fund to the Department of

Parks and Recreation as a loan for administrative and startup costs to implement Section 2 of this act. The loan shall be repaid, together with interest, to the General Fund from the Winter Recreation Fund within 10 years from the date on which the loan is made. The rate of interest shall be equivalent to the average rate earned by investments in the Pooled Money Investment Account during the period this loan is outstanding.

CHAPTER 635

An act to amend Section 778a of the Penal Code, relating to kidnapping.

[Approved by Governor October 6, 1991. Filed with Secretary of State October 8, 1991.]

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

SECTION 1. Section 778a of the Penal Code is amended to read:

778a. (a) Whenever a person, with intent to commit a crime, does any act within this state in execution or part execution of that intent, which culminates in the commission of a crime, either within or without this state, the person is punishable for that crime in this state in the same manner as if the the crime had been committed entirely within this state.

(b) Whenever a person who, within this state, kidnaps another person within the meaning of Sections 207 and 209, and thereafter carries the person into another state or country and commits any crime of violence or theft against that person in the other state or country, the person is punishable for that crime of violence or theft in this state in the same manner as if the crime had been committed within this state.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 636

An act to amend Sections 404, 5371.3, and 5383 of the Public Utilities Code, relating to carriers.

[Approved by Governor October 6, 1991. Filed with Secretary of State October 8, 1991.]

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

SECTION 1. Section 404 of the Public Utilities Code, as amended by Section 1.5 of Chapter 1336 of the Statutes of 1989, is amended to read:

404. (a) All fees paid pursuant to this chapter, exclusive of any penalties for delinquency, shall be allowed by the commission in a separate order as an ordinary operating expense for purposes of establishing rates or charges. The commission shall authorize each person or corporation subject to Section 421 or 431 to annually adjust its rates or charges for intrastate services so as to collect from its customers and subscribers an amount sufficient to pay the amount of the fee required by Section 421 or 431 together with the costs of collecting the fee from each customer or subscriber.

(b) The commission shall adopt rules to determine the appropriate level of fees for carriers that provide transportation services incidental to commercial balloon operations, commercial river rafting, or skiing.

(c) Each person or corporation subject to Section 421 or 431 may identify separately, on the bill of each customer or subscriber, the amount to be paid by each customer or subscriber for purposes of funding the commission pursuant to this chapter.

(d) Persons or corporations subject to Section 421 or 431 shall pay the fee in accordance with Section 423 or 433 after collection from their customers or subscribers.

(e) This section shall remain in effect only until January 1, 1994, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1994, deletes or extends that date.

SEC. 2. Section 5371.3 of the Public Utilities Code is amended to read:

5371.3. (a) A class C certificate holder is one who provides transportation services incidental to commercial balloon operations, commercial river rafting, or skiing. This section does not apply to certificates issued under Section 5371.1 or 5371.2.

(b) This section shall remain in effect only until January 1, 1994, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1994, deletes or extends that date.

SEC. 3. Section 5383 of the Public Utilities Code, as amended by Section 4 of Chapter 1336 of the Statutes of 1989, is amended to read:

5383. The commission shall create the following classifications or types of certificates for charter-party carriers of passengers:

Class A: from any point or points within the state to other points in or out of this state.

Class B: from any point within the territory of origin specified in the certificate to any points in the state, or territory of origin.

Class C: services provided incidental to commercial balloon operations, commercial river rafting, or skiing where no additional compensation is provided for the transportation.

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

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 637

An act to repeal Section 1568.19 of the Health and Safety Code, to amend Sections 9307, 9315, and 9408 of, and to repeal Sections 9395, 9607, 9716, and 9756 of, the Welfare and Institutions Code, relating to public social services.

[Approved by Governor October 6, 1991. Filed with Secretary of State October 8, 1991.]

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

SECTION 1. Section 1568.19 of the Health and Safety Code is repealed.

SEC. 2. Section 9307 of the Welfare and Institutions Code is amended to read:

9307. The department shall prepare and submit each year, on January 1, a written report to the Governor and appropriate committees of the Legislature. This report shall include all of the following for each program:

(a) A description of each program.

(b) The number of clients served by each program.

(c) A description of program clients and how clients are selected for each program.

(d) A description and quantity of services provided by each program.

(e) A description of the cost of each program.

SEC. 3. Section 9315 of the Welfare and Institutions Code is amended to read:

9315. (a) The department shall implement by July 1, 1985, a new intrastate funding formula in accordance with all federal regulations. This formula shall apply to all federal and state funds allocated for programs provided for under Title III of the federal Older Americans Act (42 U.S.C. Sec. 3021, et seq.).

The intrastate funding formula shall include all of the following:

(1) Assurances that all area agencies on aging shall have a fifty thousand dollar ($50,000) administrative base with the remainder of the allowable administrative dollars allocated to planning and service area on the basis of number of persons over the age of 60 years.

Area agencies on aging shall use no state funds for administrative purposes unless the funds are provided pursuant to subdivision (f) of Section 9354.

(2) When data is available, an annual update by the department for changes in population characteristics to include the number of persons per planning and service area over the age of 60 years and persons in greatest economic or social need as measured by all of the following variables which shall also be annually updated by the department:

(A) Number of persons over the age of 65 years receiving aid under the State Supplementary Program, provided for under Chapter 3 (commencing with Section 12000) of Part 3 of Division 9.

(B) Number of persons over the age of 75 years.

(C) Number of minority elderly over the age of 60 years.

(D) Number of persons over the age of 60 years living alone.

(E) Number of non-English-speaking persons over the age of 60 years.

The weight given to each variable shall simulate the weighting used in the Washington State intrastate funding formula adjusting for the geographic factor.

(3) A rural factor which guarantees a 105 percent allocation to rural planning and service areas.

(4) A hold-harmless factor which guarantees that no planning and service area shall have its federal and state allocation of funds under Title III of the federal Older Americans Act (42 U.S.C., Sec. 3021, et seq.), excluding area agency on aging administrative costs and funds carried over from the 1983–84 fiscal year, reduced below the 1984–85 fiscal year funding levels.

(b) In the event that additional federal or state funds, in excess of those appropriated under the 1984–85 Budget Act, or subsequent Budget Acts are made available for services, these funds shall be used to maintain existing service levels, with the remainder to be distributed to those planning and service areas which have been determined by the department to be under equity until parity is achieved.

(c) One-time-only funds shall be distributed in accordance with

the intrastate funding formula and shall be used for one-time-only purposes, including:

(1) The purchase of capital equipment which enhances the delivery of services to those seniors identified as being in greatest social or economic need as determined by the local planning process.

(2) Home and community based long-term care projects which encourage families to maintain their elderly members in the home environment.

(3) Innovative pilot projects, as determined by the department.

Preference shall be given to those planning and service areas which have been determined by the Department of Aging to be under equity as defined in subdivision (b).

(d) The department shall develop, in conjunction with the intrastate funding formula, a methodology for assuring compliance with the state targeting strategy on an intraplanning and service area basis. In developing this methodology the department shall provide assurances that as additional federal and state service dollars are allocated to the planning and service areas these dollars will be expended on those elderly persons identified as in greatest economic or social need.

(e) For purposes of this section, "one-time-only funds" means the combination of unspent funds which were budgeted to an area agency on aging and unearned funds resulting from audit resolutions.

SEC. 4. Section 9395 of the Welfare and Institutions Code is repealed.

SEC. 5. Section 9408 of the Welfare and Institutions Code is amended to read:

9408. The agency shall do the following:

(a) Enter into agreements and negotiated contracts with any nonprofit organization or governmental entity to operate the local sites consistent with the criteria adopted pursuant to Section 9405. In letting these contracts, the agency shall not anticipate future appropriations.

(b) Make grants to local sites from available funds.

(c) Monitor local sites.

(d) Cause the pilot projects to be evaluated in accordance with the established criteria.

(e) Seek and utilize any available federal, state, or private funds which may be available for carrying out the purposes of this chapter.

Notwithstanding any other provision of law, local sites established pursuant to this chapter may contract with the State Director of Health Services as Medi-Cal programs pursuant to Chapter 8 (commencing with Section 14200) of Part 3 of Division 9. Contracts with such local sites shall be deemed to be for the purposes specified in Section 14494, and may utilize funds appropriated from the Health Care Deposit Fund pursuant to Section 14157.

(f) Request and secure such waivers of single state agency requirements as are necessary under the Federal Intergovernmental

Cooperation Act of 1968 (P.L. 90-577), and such other federal requirements as are necessary in order to utilize available federal funds for the purposes of this chapter.

(g) Assist in coordinating local site programs with local governmental programs and services for older persons.

SEC. 6. Section 9607 of the Welfare and Institutions Code is repealed.

SEC. 7. Section 9716 of the Welfare and Institutions Code is repealed.

SEC. 8. Section 9756 of the Welfare and Institutions Code is repealed.

CHAPTER 638

An act to amend Section 19.8 of, and to add Section 490.1 to, the Penal Code, relating to public offenses.

[Approved by Governor October 6, 1991. Filed with Secretary of State October 8, 1991]

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

SECTION 1. Section 19.8 of the Penal Code is amended to read:

19.8. The following offenses are subject to subdivision (d) of Section 17: Sections 330, 415, 485, 555, and 853.7, of this code; subdivision (m) of Section 602 of this code; subdivision (b) of Section 25658 and Sections 25658.5, 25661, and 25662 of the Business and Professions Code; subdivision (c) of Section 23109 and Sections 12500, 14601.1, 27150.1, 40508, and 42005 of the Vehicle Code, and any other offense which the Legislature makes subject to subdivision (d) of Section 17. Except where a lesser maximum fine is expressly provided for violation of any of those sections, any violation which is an infraction is punishable by a fine not exceeding two hundred fifty dollars ($250).

Except for the violations enumerated in subdivision (d) of Section 13202.5 of the Vehicle Code, and Section 14601.1 of the Vehicle Code based upon failure to appear, a conviction for any offense made an infraction under subdivision (d) of Section 17 is not grounds for the suspension, revocation, or denial of any license, or for the revocation of probation or parole of the person convicted.

SEC. 2. Section 490.1 is added to the Penal Code, to read:

490.1. (a) Petty theft, where the value of the money, labor, real or personal property taken is of a value which does not exceed fifty dollars ($50), may be charged as a misdemeanor or an infraction, at the discretion of the prosecutor, provided that the person charged with the offense has no other theft or theft-related conviction.

(b) Any offense charged as an infraction under this section shall be subject to the provisions of subdivision (d) of Section 17 and

Sections 19.6 and 19.7.

A violation which is an infraction under this section is punishable by a fine not exceeding two hundred fifty dollars ($250).

CHAPTER 639

An act to add Article 13.1 (commencing with Section 429.13) to Chapter 2 of Part 1 of Division 1 of the Health and Safety Code, relating to medical devices.

[Approved by Governor October 6, 1991. Filed with Secretary of State October 8, 1991.]

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

SECTION 1. Article 13.1 (commencing with Section 429.13) is added to Chapter 2 of Part 1 of Division 1 of the Health and Safety Code, to read:

Article 13.1. Safer Medical Devices

429.13. The Legislature hereby finds and declares all of the following:

(a) More than 700,000 California health care workers and professionals, such as nurses, physicians and surgeons and housekeeping staff, daily put their lives at risk of infection from deadly, bloodborne diseases in order to provide health care for all Californians.

(b) Nationally, more than 1,000 health care personnel a year are infected with Hepatitis B, and 250 die of this disease.

(c) Approximately 30 cases of occupational exposure to HIV have been conclusively documented by the federal Centers for Disease Control.

(d) Studies estimate that it is likely that several hundred health care workers nationwide have been infected with HIV on the job.

(e) Some bloodborne diseases, including infection with HIV, can be prevented only through avoiding exposure to the pathogen.

(f) In 1989, the federal Occupational Safety and Health Administration estimated that health care personnel suffer 889,000 exposures to bloodborne diseases annually nationwide and that 790,000 of these exposures results from injuries from sharp instruments, including needle sticks.

(g) During a six-month period, more than 200 exposures of health care personnel to blood and other bodily fluids were documented at a single hospital, the Medical Center at the University of California, San Francisco.

(h) While most health care employers have implemented rigorous, universal infection control procedures, requiring gloving

and other protective equipment, exposures to bloodborne diseases continues to be a major risk for health care workers.

(i) As the federal Occupational Safety and Health Administration has noted, gloving and other protective devices cannot prevent puncture injuries from needles and other sharp instruments.

(j) Medical devices, such as needles and intravenous tubing, are reviewed by the federal Food and Drug Administration for patient safety and efficacy but are not reviewed by any state or federal agency for worker safety.

(k) It is estimated that improved product design of medical devices, such as needles, syringes, connectors for intravenous tubes, and vacuum tubes used to draw blood could reduce injuries involving exposure to blood by as much as 85 percent.

429.14. It is the intent of the Legislature in enacting this article to reduce exposure of health care personnel to deadly, bloodborne diseases by encouraging the development and use of medical devices that are designed to assure worker safety as well as the safety of patients and the efficacy of the device.

429.15. (a) The program on occupational health and occupational disease prevention of the state department shall do all of the following:

(1) In coordination with the Division of Occupational Safety and Health, review and analyze existing studies, data, and other information on safety-enhanced product design of medical devices that place health care workers at risk of exposure to bloodborne diseases including, but not limited to, syringes and intravenous tubing which have sharp points.

(2) Collect and evaluate information from health facilities which are using medical devices which have been redesigned to enhance worker safety.

(3) To the extent that funding is available, conduct demonstration projects to test the use of safety enhanced medical devices at health facilities, which volunteer to participate in these projects.

(4) Report to the Legislature and the Department of Industrial Relations its findings regarding the use of safety-enhanced product design for medical devices. These findings shall include analysis and recommendations regarding projected cost savings to health facilities, actual improvement in worker safety, and continued patient safety and efficacy.

(b) The duties required by this section shall be performed to the extent that the state department obtains funds from private sources and the federal government.

CHAPTER 640

An act to repeal Section 1777.8 of the Labor Code, relating to apprenticeship, and making an appropriation therefor.

[Approved by Governor October 6, 1991. Filed with Secretary of State October 8, 1991.]

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

SECTION 1. Section 1777.8 of the Labor Code is repealed.

SEC. 2. Notwithstanding Section 1611 and Chapter 3.5 (commencing with Section 10200) of Part 1 of Division 3 of the Unemployment Insurance Code, on or before February 1, 1992, one million three hundred thousand dollars ($1,300,000) from interest earned from moneys in the Employment Training Fund shall be transferred to the Department of Industrial Relations for the support of the Division of Apprenticeship Standards.

CHAPTER 641

An act to add Chapter 5 (commencing with Section 58700) to Part 31 of the Education Code, to amend, repeal, and add Section 11489 of the Health and Safety Code, to amend Section 16 of Chapter 1492 of the Statutes of 1988, and to repeal Sections 1, 2, 3, 4, 5, 6, 8, 9, and 10 of Chapter 1250 of the Statutes of 1988, relating to gang risk intervention programs.

[Approved by Governor October 6, 1991 Filed with Secretary of State October 8, 1991.]

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

SECTION 1. Chapter 5 (commencing with Section 58700) is added to Part 31 of the Education Code, to read:

CHAPTER 5. GANG RISK INTERVENTION PROGRAMS

58700. The Legislature finds and declares that gang violence has caused a tremendous strain on the progress of the communities impacted. The loss of life, property, and positive opportunity for growth caused by gang violence has reached an intolerable level.

The Legislature further finds and declares that youth gang violence can be effectively reduced in California schools through the involvement of parents, teachers, school administrators, community organizations, and individuals with firsthand knowledge of the problem.

The Legislature further finds and declares that a strong and

consistent relationship between the home and schools would facilitate the learning process and inevitably help control problems associated with gang violence.

58701. It is the intent of the Legislature to cause the development of positive intervention pilot programs for elementary and secondary school age students in Los Angeles County, through cooperation between individual schools and existing organizations in communities. It is also the intent of the Legislature that if the intervention pilot programs in Los Angeles County are determined to be effective in reducing problems associated with gang violence, that other counties in the state be eligible to receive special funding to establish similar positive intervention programs.

58702. Unless the context otherwise requires, as used in this chapter, the following definitions shall apply:

(a) "School" means any public school within Los Angeles County, consisting of kindergarten and grades 1 to 12, inclusive.

(b) "Private, nonprofit organization" means any organization registered in that category with the Secretary of State.

(c) "Gang Risk Intervention Pilot Program" means a community-based positive intervention program for elementary through high school students directed at all of the following:

(1) Reducing the probability of youth involvement in gang activities and consequent violence.

(2) Establishing ties, at an early age, between youth and community organizations.

(3) Committing local business and community resources to positive programming for youth.

58703. The State Department of Education shall contract with the Los Angeles County Office of Education for the development, administration, and implementation in Los Angeles County of community-based Gang Risk Intervention Pilot Programs (GRIPP). The programs may be established in incorporated or unincorporated territory of the county, or both.

58704. (a) The Los Angeles County Office of Education may request and review proposals for, and award grants to, private nonprofit organizations, and public entities which apply jointly with individual schools, for the purpose of establishing a Gang Risk Intervention Pilot Program.

(b) The Los Angeles County Office of Education, upon its election to enter into a contract pursuant to Section 58703, shall distribute a standard request for proposal and shall select Gang Risk Intervention Pilot Programs to receive grants through a competitive bidding process. Proposals to the Los Angeles County Office of Education for Gang Risk Intervention Pilot Program grant funding shall begin with school years no sooner than the 1989–90 session and shall include all of the following:

(1) A description of the program goals, activities, and curricula. The description of the program goals shall include a list of measurable objectives for the purpose of evaluation by the Los

Angeles County Office of Education. To the extent possible, proposals shall contain empirical data on current problems, such as dropout rates and occurrences of violence on and off campus by schoolage individuals.

(2) A description of the individual school or schools and the geographic area to be affected by the program.

(3) A demonstration of broad-based support for the program from business and community organizations.

(4) A clear description of the experience, expertise, and other qualifications of the private nonprofit agencies to conduct an effective intervention program in cooperation with a school or a group of schools.

(5) A proposed budget for expenditure of the grant.

(c) The Office of Criminal Justice Planning shall monitor and evaluate the Gang Risk Intervention Pilot Programs. The evaluation shall include a comparison of children served by the Gang Risk Intervention Pilot Programs to children of similar socioeconomic and demographic environments, and shall include the following information regarding the performance and effectiveness of the Gang Risk Intervention Pilot Programs:

(1) Success in obtaining stated goals.

(2) Reduction in dropout rates.

(3) Reduction in violence among students, on and off campus.

(4) Development of techniques for early identification of at-risk youth.

For the purposes of evaluating the programs, the Office of Criminal Justice Planning shall, to the extent feasible, compare the data submitted by each applicant pursuant to paragraph (1) of subdivision (b) with comparable data collected after the intervention pilot program has been implemented to determine the effectiveness of the program in slowing down and, to the extent possible, reversing the trends of problems such as increased dropout rates and violence on and off campus.

58705. (a) Gang Risk Intervention Pilot Programs (GRIPP), funded by grants awarded by the Los Angeles County Office of Education, shall be initiated at the local level through voluntary cooperation between a local school, or group of schools, and a private nonprofit community-based organization or organizations, and shall place at each school, or group of schools, a community organizer to be selected by the private nonprofit organization or organizations involved.

(b) Gang Risk Intervention Pilot Programs shall include, but are not limited to:

(1) Counseling for targeted at-risk students, parents, and families, individually and collectively.

(2) Exposure to positive sports and cultural activities, promoting affiliations between youth and the local community.

(3) Job training, which may include apprentice programs in coordination with local businesses, job skills development at the

school, or information about vocational opportunities in the community.

(4) Positive interaction with local law enforcement personnel.

(c) Grants for Gang Risk Intervention Pilot Programs (GRIPP) awarded by the Los Angeles County Office of Education shall not exceed one hundred thousand dollars ($100,000) per individual proposal.

(d) No funding shall be made available to any Gang Risk Intervention Pilot Program or facility pursuant to this section unless all of the following conditions are met:

(1) The Gang Risk Intervention Pilot Program is open to children without regard to any child's religious beliefs or any other factor related to religion.

(2) No religious instruction is included in the Gang Risk Intervention Pilot Program.

(3) The space in which the Gang Risk Intervention Pilot Program is operated is not utilized in any manner to foster religion during the time used for the Gang Risk Intervention Pilot Program.

58706. The Los Angeles County Office of Education shall not be required to grant any funds in excess of amounts received for this purpose.

58707. The Los Angeles County Office of Education is hereby authorized to receive funds disbursed from the Asset Forfeiture Distribution Fund pursuant to subparagraph (B) of paragraph (3) of subdivision (b) of Section 11489 of the Health and Safety Code.

SEC. 2. Section 11489 of the Health and Safety Code, as amended by Chapter 1195 of the Statutes of 1989, is amended to read:

11489. Notwithstanding Section 11502, and except as otherwise provided in Sections 11473, 11473.2, and 11473.3, in all cases where the property is seized pursuant to this chapter and forfeited to the state or local governmental entity and, where necessary, sold by the Department of General Services or local governmental entity, the money forfeited or the proceeds of sale, and any interest accrued thereon, shall be distributed by the state or local governmental entity as follows:

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

(b) The balance, if any, to accumulate, and to be distributed and transferred quarterly in the following manner:

(1) To the state agency or local governmental entity for all expenditures made or incurred by it in connection with the sale of the property, including expenditures for any necessary costs of notice required by Section 11488.4 and any necessary repairs, storage, or transportation of any property seized under this chapter.

(2) Ninety percent of the balance shall be distributed as follows:

(A) Eighty-five percent to the state or local or to the state and local law enforcement agencies that participated in the seizure,

allocated between them to reflect the proportionate contribution of each agency.

(B) Fifteen percent to the prosecutorial agency which processes the forfeiture action.

(3) Ten percent of the balance for deposit in the Asset Forfeiture Distribution Fund, which is hereby created, and which shall be administered by the Office of Criminal Justice Planning.

(A) Notwithstanding Section 11340 of the Government Code, one million five hundred thousand dollars ($1,500,000) is hereby continuously appropriated each fiscal year, as adjusted annually by the state and local implicit price deflator, to the State Department of Mental Health for the purposes of Chapter 6 (commencing with Section 5475) of Part 1 of Division 5 of the Welfare and Institutions Code. This subparagraph shall be funded prior to funding subparagraph (B).

(B) After the obligation specified in subparagraph (A) is satisfied, moneys in the Asset Forfeiture Distribution Fund are available for appropriation in the annual Budget Act for the following purposes:

(i) One million dollars ($1,000,000) for the 1991–92 fiscal year to the Los Angeles County Office of Education to fund grants and administer the Gang Risk Intervention Pilot Program as established pursuant to Chapter 5 (commencing with Section 58700) of Part 31 of the Education Code. This clause (i) shall be funded prior to funding clauses (ii) and (iii). This clause (i) shall remain operative only until July 1, 1992, and as of that date is inoperative.

(ii) An amount not to exceed 5 percent of the Asset Forfeiture Distribution Fund to cover administrative costs incurred by the Office of Criminal Justice Planning. Notwithstanding Section 16305.7 of the Government Code, any interest earned or other increment derived from investments made from moneys in the Asset Forfeiture Distribution Fund shall be deposited in the Asset Forfeiture Distribution Fund. This clause (ii) shall be funded prior to funding clause (iii).

(iii) The balance, if any, remaining shall revert to the General Fund on June 30, 1992.

(c) Notwithstanding Item 0820-101-469 of the Budget Act of 1985 (Chapter 111 of the Statutes of 1985), all funds allocated to the Department of Justice pursuant to subparagraph (A) of paragraph (2) of subdivision (b) shall be deposited into the Department of Justice Special Deposit Fund–State Asset Forfeiture Account and used for the law enforcement efforts of the state or for state or local law enforcement efforts pursuant to Section 11493.

All funds allocated to the Department of Justice by the federal government under its Federal Asset Forfeiture program authorized by the Comprehensive Crime Control Act of 1984 may be deposited directly into the Narcotics Assistance and Relinquishment by Criminal Offenders Fund and used for state and local law enforcement efforts pursuant to Section 11493.

Funds which are not deposited pursuant to the above paragraph

shall be deposited into the Department of Justice Special Deposit Fund-Federal Asset Forfeiture Account.

(d) All the funds distributed pursuant to paragraph (2) of subdivision (b) shall not supplant any state or local funds that would, in the absence of this subdivision, be made available to support the law enforcement and prosecutorial efforts of these agencies. Funds so distributed shall be used by the law enforcement and prosecutorial agencies exclusively to support law enforcement and prosecutorial efforts of those agencies.

(e) This section shall remain in effect until July 1, 1992, and as of that date is repealed.

SEC. 3. Section 11489 is added to the Health and Safety Code, to read:

11489. Notwithstanding Section 11502 and except as otherwise provided in Sections 11473, 11473.2, and 11473.3, in all cases where the property is seized pursuant to this chapter and forfeited to the state or local governmental entity and, where necessary, sold by the Department of General Services or local governmental entity, the money forfeited or the proceeds of sale, and any interest accrued thereon, shall be distributed by the state or local governmental entity as follows:

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

(b) The balance, if any, to accumulate, and to be distributed and transferred quarterly in the following manner:

(1) To the state agency or local governmental entity for all expenditures made or incurred by it in connection with the sale of the property, including expenditures for any necessary costs of notice required by Section 11488.4 and any necessary repairs, storage, or transportation of any property seized under this chapter.

(2) Ninety percent of the balance shall be distributed as follows:

(A) Eighty-five percent to the state or local or to the state and local law enforcement agencies that participated in the seizure, allocated between them to reflect the proportionate contribution of each agency.

(B) Fifteen percent to the prosecutorial agency which processes the forfeiture action.

(3) Ten percent of the balance for deposit in the Asset Forfeiture Distribution Fund, which is hereby created, and which shall be administered by the Office of Criminal Justice Planning.

(A) Notwithstanding Section 11340 of the Government Code, one million five hundred thousand dollars ($1,500,000) is hereby continuously appropriated each fiscal year, as adjusted annually by the state and local implicit price deflator, to the State Department of Mental Health for the purposes of Chapter 6 (commencing with Section 5475) of Part 1 of Division 5 of the Welfare and Institutions Code. This subparagraph shall be funded prior to funding

subparagraph (B).

(B) After the obligation specified in subparagraph (A) is satisfied, moneys in the Asset Forfeiture Distribution Fund are available for appropriation in the annual Budget Act for the following purposes:

(i) One million dollars ($1,000,000), in 1989 and 1990 only, to the Los Angeles County Office of Education to fund grants and administer the Gang Risk Intervention Pilot Program as established pursuant to Assembly Bill 3723 of the 1987–88 Regular Session of the Legislature. This clause (i) shall be funded prior to funding clauses (ii) and (iii). This clause (i) shall remain operative only until January 1, 1991, and as of that date is inoperative.

(ii) An amount not to exceed 5 percent of the Asset Forfeiture Distribution Fund to cover administrative costs incurred by the Office of Criminal Justice Planning. Notwithstanding Section 16305.7 of the Government Code, any interest earned or other increment derived from investments made from moneys in the Assets Forfeiture Distribution Fund shall be deposited in the Asset Forfeiture Distribution Fund. This clause (ii) shall be funded prior to funding clause (iii).

(iii) The balance, if any, remaining shall be distributed, as follows:

(I) Eighty-five percent for deposit in the Peace Officers' Training Fund as set forth in Section 13520 of the Penal Code. State agencies shall be entitled to allocations out of the funds generated by this section, in the same manner as provided in Section 13523 of the Penal Code, for drug related training provided to full-time regularly paid peace officers employed by the state, to the extent that there are funds in the Peace Officers' Training Fund generated by this section.

(II) Fifteen percent for financial assistance to provide for a statewide program of education, training, and research for local public prosecutors, which shall be administered by a private nonprofit organization composed of local prosecutors and which provides statewide education, training, and research.

(c) Notwithstanding Item 0820-101-469 of the Budget Act of 1985 (Chapter 111 of the Statutes of 1985), all funds allocated to the Department of Justice pursuant to subparagraph (A) of paragraph (3) of subdivision (b) shall be deposited into the Department of Justice Special Deposit Fund–State Asset Forfeiture Account and used for the law enforcement efforts of the state or for state or local law enforcement efforts pursuant to Section 11493.

All funds allocated to the Department of Justice by the federal government under its Federal Asset Forfeiture program authorized by the Comprehensive Crime Control Act of 1984 may be deposited directly into the Narcotics Assistance and Relinquishment by Criminal Offenders Fund and used for state and local law enforcement efforts pursuant to Section 11493.

Funds which are not deposited pursuant to the above paragraph shall be deposited into the Department of Justice Special Deposit Fund-Federal Asset Forfeiture Account.

(d) All the funds distributed pursuant to paragraph (3) of

subdivision (b) shall not supplant any state or local funds that would, in the absence of this subdivision, be made available to support the law enforcement and prosecutorial efforts of these agencies. Funds so distributed shall be used by the law enforcement and prosecutorial agencies exclusively to support law enforcement and prosecutorial efforts of those agencies.

The court shall order the forfeiture proceeds distributed to the state, local, or state and local agencies as provided in this section.

All proceeds from forfeiture proceedings completed after January 1, 1989, shall be distributed in accordance with this section.

(e) This section shall become operative on July 1, 1992.

(f) This section shall remain in effect until January 1, 1994, and as of that date is repealed.

SEC. 4. Section 11489 is added to the Health and Safety Code, to read:

11489. Notwithstanding Section 11502 and except as otherwise provided in Sections 11473 and 11473.2, in all cases where the property is seized pursuant to this chapter and forfeited to the state or local governmental entity and, where necessary, sold by the Department of General Services or local governmental entity, the money forfeited or the proceeds of sale shall be distributed by the state or local governmental entity as follows:

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

(b) The balance, if any, to accumulate, and to be distributed and transferred quarterly in the following manner:

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

(2) The remaining funds shall be distributed as follows:

(A) Sixty-five percent to the state, local, or state and local law enforcement entities that participated in the seizure distributed so as to reflect the proportionate contribution of each agency.

(B) Ten percent to the prosecutorial agency which processes the forfeiture action.

(C) Twenty percent to the State Department of Mental Health for deposit in the Mental Health Primary Prevention Fund for primary prevention programs in accordance with Chapter 1083 of the Statutes of 1981. There is hereby created in the State Treasury the Mental Health Primary Prevention Fund. Notwithstanding Section 13340 of the Government Code, the moneys in the Mental Health Primary Prevention Fund are hereby continuously appropriated to the State Department of Mental Health to expend for primary prevention programs in accordance with Chapter 6 (commencing with Section 5475) of Part 1 of Division 5 of the Welfare and Institutions Code. Expenditures may include

administrative costs incurred by the department. These administrative costs are not to exceed 5 percent of the fund. Notwithstanding the provisions of Section 16305.7 of the Government Code, any interest earned or other increment derived from investments made from moneys in the fund shall be deposited in the Mental Health Primary Prevention Fund.

(D) Five percent to eligible nonprofit organizations established for the purposes of aiding those seizures and forfeitures. Moneys shall be used to fund the operations of those organizations where it has been determined that information provided by the organization resulted in the seizure of these funds. In all other instances these moneys shall be deposited into the Narcotics Assistance and Relinquishment by Criminal Offenders Fund. The eligibility criteria and amount of funds to be allocated under this subparagraph shall be determined by each county pursuant to county ordinance.

(c) Notwithstanding Item 0820-101-469 of the Budget Act of 1985 (Chapter 111 of the Statutes of 1985), all funds allocated to the Department of Justice pursuant to subparagraph (A) of paragraph (2) of subdivision (b) shall be deposited into the Department of Justice Special Deposit Fund–State Asset Forfeiture Account and used for the law enforcement efforts of the state or for state or local law enforcement efforts pursuant to Section 11493.

All funds allocated to the Department of Justice by the federal government under its Federal Asset Forfeiture program authorized by the Comprehensive Crime Control Act of 1984 may be deposited directly into the Narcotics Assistance and Relinquishment by Criminal Offender Fund and used for state and local law enforcement efforts pursuant to Section 11493.

Funds which are not deposited pursuant to the above paragraph shall be deposited into the Department of Justice Special Deposit Fund-Federal Asset Forfeiture Account.

(d) All the funds distributed to the state or local governmental entity pursuant to subparagraphs (A) and (B) of paragraph (2) of subdivision (b) shall not supplant any state or local funds that would, in the absence of this subdivision, be made available to support the law enforcement and prosecutorial efforts of these agencies.

The court shall order the forfeiture proceeds distributed to the state, local, or state and local governmental entities as provided in this section.

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

All property seized and all proceeds from the sale of property seized pursuant to this chapter prior to October 2, 1985, shall be distributed in accordance with the provisions of this section.

(e) This section shall become operative on January 1, 1994.

SEC. 5. Section 1 of Chapter 1250 of the Statutes of 1988 is repealed.

SEC. 6. Section 2 of Chapter 1250 of the Statutes of 1988 is repealed.

SEC. 7. Section 3 of Chapter 1250 of the Statutes of 1988 is repealed.

SEC. 8. Section 4 of Chapter 1250 of the Statutes of 1988 is repealed.

SEC. 9. Section 5 of Chapter 1250 of the Statutes of 1988 is repealed.

SEC. 10. Section 6 of Chapter 1250 of the Statutes of 1988 is repealed.

SEC. 11. Section 8 of Chapter 1250 of the Statutes of 1988 is repealed.

SEC. 12. Section 9 of Chapter 1250 of the Statutes of 1988 is repealed.

SEC. 13. Section 10 of Chapter 1250 of the Statutes of 1988 is repealed.

SEC. 14. Section 16 of Chapter 1492 of the Statutes of 1988 is amended to read:

Sec. 16. The provisions of the Health and Safety Code amended by this act, except Section 11489, shall remain in effect only until January 1, 1994, at which time those sections as they read on December 31, 1988, shall have the same force and effect as if they had not been amended.

SEC. 15. Due to the unique circumstances concerning the need to receive appropriate information in order to develop a statewide gang violence intervention policy and program, the Legislature finds and declares that a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the Constitution. The Legislature further finds and declares that there are significant and diverse gang violence problems in Los Angeles County, and that Los Angeles County is therefore an appropriate location from which to gather information and develop a pilot program pursuant to this act.

CHAPTER 642

An act to add Chapter 24 (commencing with Section 22750) to Division 8 of the Business and Professions Code, relating to pallets.

[Approved by Governor October 6, 1991. Filed with Secretary of State October 8, 1991]

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

SECTION 1. Chapter 24 (commencing with Section 22750) is added to Division 8 of the Business and Professions Code, to read:

CHAPTER 24. BEVERAGE CONTAINER OR GROCERY PALLETS

22750. For purposes of this chapter, a "beverage container or grocery pallet" is a wooden or plastic carrier or container,

approximately 48 inches by 40 inches with a four-way forklift entry, used by a manufacturer or distributor in the transportation to retail outlets of food or other items sold in grocery stores, other than alcoholic beverages or malt-based nonalcoholic beverages, which has a notice permanently affixed to it that (a) identifies the company name of the owner of the pallet, (b) notifies the public that the unauthorized possession of the pallet is a violation of state law, and (c) lists a telephone number or address for returning the pallet to the owner.

22751. Any person who purchases or leases any beverage container or grocery pallet shall retain a copy of the bill of sale or other evidence which supports the purchase.

22752. As used in this chapter, an "unauthorized person" with respect to possession of beverage container or grocery pallets includes anyone in possession of a beverage container or grocery pallet, except the following:

(1) The company owner.

(2) A person in lawful possession of the beverage container or grocery pallet.

(3) A person who, with the consent of the company owner or their agent, has temporary possession of a beverage container or grocery pallet as a result of the purchase of beverage or grocery products packaged and transported on a beverage container or grocery pallet.

22753. The following acts are punishable as provided in subdivision (b) of Section 489 or in Section 490 of the Penal Code as to any beverage container or grocery pallet when the beverage container or grocery pallet has a sign permanently affixed to it that identifies the owner of the property, notifies the public that the unauthorized possession of the container or pallet is a violation of state law, and lists an address or telephone number for returning the container or pallet to the owner:

(1) Possession of a beverage container or grocery pallet by an unauthorized person.

(2) Obliteration of the brand or company name on the pallet, except by the owner thereof.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 643

An act to add Chapter 5 (commencing with Section 58700) to Part 31 of the Education Code, and to repeal Chapter 342 of the Statutes of 1991, relating to education.

[Approved by Governor October 6, 1991. Filed with Secretary of State October 8, 1991.]

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

SECTION 1. Chapter 5 (commencing with Section 58700) is added to Part 31 of the Education Code, to read:

CHAPTER 5. TUTORING AND HOMEWORK ASSISTANCE PROGRAM

58700. The Legislature finds and declares all of the following:

(a) The Pasadena Unified School District has operated the Tutoring and Homework Assistance Program since September 1985 through which pupils are able to receive appropriate homework or specialized tutorial assistance, or both, from trained personnel and volunteers after regular school hours at each of the district's 30 schools, at no cost to the pupil, and through which parents, teachers, and pupils receive information and referral services on the tutoring and homework support services available through the school district and other community organizations.

(b) The Tutoring and Homework Assistance Program has provided over 30,000 hours of assistance annually to over 1,000 pupils.

(c) Surveys completed by principals, site coordinators, classroom teachers, parents, and pupils have generated favorable responses to the program.

(d) The Tutoring and Homework Assistance Program is of educational benefit and provides a cost-effective means of reaching pupils, of supporting rather than replacing the role of parents, and of enabling pupils to succeed in school and, therefore, to be more likely to remain in school.

(e) The district has evaluated the program pursuant to the evaluation requirements of this chapter and has found that the program results in improved academic performance.

(f) The Tutoring and Homework Assistance Program has demonstrated success during the first two years of operation and should be continued on a statewide basis.

58701. (a) The Pasadena Unified School District shall furnish, on or before July 1, 1992, to the Superintendent of Public Instruction, a copy of its Tutoring and Homework Assistance Program, as developed and implemented pursuant to Chapter 1311 of the Statutes of 1988.

58702. (a) Any school district that implements the Tutoring and Homework Assistance Program may credit towards its summer

school apportionments, computed pursuant to Section 42239, as amended by the annual Budget Act, hours of homework and tutorial assistance provided pursuant to the program described in Sections 58700 and 58701, if the instruction is in core academic areas specified in paragraph (2) of subdivision (d) of Section 42239.

(b) Any school district may claim funding for programs operated pursuant to this chapter if the district has first claimed in regular summer school programs the budgeted funding level of hours based on 7 percent of the district's total enrollment for the prior fiscal year or the budgeted funding level of hours guaranteed in either Section 42239 or the annual Budget Act, if greater than 7 percent. For the 1991–92 fiscal year, the number of hours shall be those set forth in subdivision (a) of Provision 8 of Item 6110-101-001 of Section 2.00 of the Budget Act of 1991.

(c) Funding claimed pursuant to this chapter shall be limited to the amount calculated pursuant to each school district's percentage of enrollment for the prior year and number of hours specified in the annual Budget Act as being available for reallocation of funding appropriated for summer school that is not claimed by school districts. For the 1991–92 fiscal year, the number of hours shall be those set forth in subdivision (b) of Provision 8 of Item 6110-101-001 of Section 2.00 of the Budget Act of 1991.

(d) Each school district that claims funding pursuant to this chapter shall maintain a record, capable of being audited, of the number of hours spent in direct contact with the pupil under the program. A certificated employee of the district shall certify the accuracy of the number of hours utilized to submit a claim for funding pursuant to this chapter prior to the allocation of that funding to the school district.

SEC. 2. Chapter 342 of the Statutes of 1991 is repealed.

CHAPTER 644

An act to add and repeal Section 1240.126 of the Code of Civil Procedure, relating to eminent domain.

[Approved by Governor October 6, 1991. Filed with Secretary of State October 8, 1991.]

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

SECTION 1. Section 1240.126 is added to the Code of Civil Procedure, to read:

1240.126. (a) Except as otherwise expressly provided by statute and subject to any limitation imposed by statute, a city may acquire by eminent domain for park purposes unincorporated property which is located within the same county as that in which the city is situated, which is contiguous at some point with the city, and which

is either of the following:

(1) Surrounded entirely by incorporated area.

(2) Surrounded on at least three sides by incorporated area or at least 75 percent of the boundary of the property is contiguous with incorporated area, whichever is less.

(b) The acquisition of parkland pursuant to this section shall be consistent with the general plan of the city.

(c) At the time funds are appropriated for its acquisition, the property acquired pursuant to this section shall not be improved with a business or farm operation that contributes materially to the owner's support. For the purpose of this section, a business shall not include the purchase, sale, lease, or rental of real property.

(d) In the event a city council intends to sell real property acquired pursuant to this section, the former owner from whom the city acquired the property shall be given notice of the proposed sale of the property and accorded the right, prior to the final acceptance of bids, to purchase the property at the tentatively accepted highest bid price.

(e) This section shall remain in effect only until January 1, 1997, and as of that date is repealed unless a later enacted chapter, which is chaptered before January 1, 1997, deletes or extends that date.

CHAPTER 645

An act to add Chapter 4.1 (commencing with Section 66210) to Part 40 of, and to add Chapter 6 (commencing with Section 94600) to Part 59 of, the Education Code, relating to postsecondary education.

[Approved by Governor October 6, 1991 Filed with Secretary of State October 8, 1991.]

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

SECTION 1. Chapter 4.1 (commencing with Section 66210) is added to Part 40 of the Education Code, to read:

CHAPTER 4.1. EMERGENCY EVACUATION PLANS FOR POSTSECONDARY STUDENT HOUSING

66210. (a) The Office of Emergency Services shall develop guidelines for campuses of the University of California and the California State University to use in developing emergency evacuation plans for all forms of student housing owned, operated, and offered by the university, both on campus and off campus. In developing the guidelines, the Office of Emergency Services shall consider Sections 3.09 and 3.13 of Title 19 of the California Code of Regulations. The guidelines shall address all of the following issues:

(1) Plan content. The plans should include, but need not be limited to, the following:

(A) Specific evacuation routes that recognize the needs of persons with special needs, such as handicapped persons.

(B) The designation of a meeting place or places upon evacuation.

(C) The education of students and staff in emergency procedures.

(2) The implementation and maintenance of the evacuation plan by the Director of Student Housing, or other appropriate officer, at the individual campuses. The director, or other appropriate officer, is responsible for scheduling periodic tests of the plan and implementing changes as needed.

(b) Each campus of the University of California and the California State University shall establish an emergency evacuation plan for its postsecondary student housing and may consult with the Office of Emergency Services for guidance in developing and establishing the plan.

66211. This chapter shall not impose any requirement upon the University of California unless the Regents of the University of California adopt a resolution to that effect.

SEC. 2. Chapter 6 (commencing with Section 94600) is added to Part 59 of the Education Code, to read:

CHAPTER 6. EMERGENCY EVACUATION PLANS FOR POSTSECONDARY STUDENT HOUSING

94600. (a) The Office of Emergency Services shall develop guidelines for private colleges and universities to use in developing emergency evacuation plans for all forms of student housing owned, operated, and offered by private colleges and universities, both on campus and off campus. In developing the guidelines, the Office of Emergency Services shall consider Sections 3.09 and 3.13 of Title 19 of the California Code of Regulations. The guidelines shall address all of the following issues:

(1) Plan content. The plans should include, but need not be limited to, the following:

(A) Specific evacuation routes that recognize the needs of persons with special needs, such as handicapped persons.

(B) The designation of a meeting place or places upon evacuation.

(C) The education of students and staff in emergency procedures.

(2) The implementation and maintenance of the evacuation plan by the Director of Student Housing, or other appropriate officer, at individual campuses. The director, or other appropriate officer, is responsible for scheduling periodic tests of the plan and implementing changes as needed.

(b) Each private college or university shall establish an emergency evacuation plan for its postsecondary student housing and may consult with the Office of Emergency Services for guidance in developing and establishing the plan.

CHAPTER 646

An act to amend Sections 201.2, 217.1, 255.2, 270, 998, and 38351 of, to add Section 759 to, and to repeal Sections 214.12 and 434.6 of, the Revenue and Taxation Code, relating to property taxation.

[Approved by Governor October 6, 1991. Filed with Secretary of State October 8, 1991]

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

SECTION 1. Section 201.2 of the Revenue and Taxation Code is amended to read:

201.2. (a) A nonprofit corporation which has contracted with the board of supervisors pursuant to Section 25905, 25906, 25907, or 25908 of the Government Code for the conduct of an agricultural fair, shall be deemed to be an agency of the county for purposes of this part and for no other purpose, and county-owned property, including possessory interests in that property, used or possessed by the nonprofit corporation in the conduct of an agricultural fair shall be exempt from taxation under subdivision (b) of Section 3 of Article XIII of the State Constitution.

(b) This section shall not be construed to exempt any profit-making organization or concessionaire from any property tax, including a property tax on a possessory interest, for the use of property which is used by a nonprofit corporation for the conduct of a fair.

SEC. 2. Section 214.12 of the Revenue and Taxation Code is repealed.

SEC. 3. Section 217.1 of the Revenue and Taxation Code is amended to read:

217.1. (a) Except as provided in subdivision (d), the following articles of personal property which have been made available for display in a publicly owned aerospace museum, or an aerospace museum which is regularly open to the public and which is operated by a nonprofit organization which has qualified for exemption pursuant to Section 23701d, shall be exempt from taxation:

(1) Aircraft which have been restored or maintained, whether currently certified or not for flight purposes.

(2) Aircraft donated in perpetuity to the aerospace museum.

(b) When making a claim for an exemption pursuant to this section, a person claiming the exemption shall give all information required and answer all questions in an affidavit, and shall subscribe and swear to the affidavit before, at the election of the claimant, either the assessor or a notary public. The assessor may require other proof of the facts stated before allowing the exemption. The affidavit shall be accompanied by a certificate of the director or other officer of the aerospace museum in which the property for which an exemption is claimed under this section was made available for

display that the property was available for public display in the aerospace museum for the period specified in subdivision (e).

(c) For the 1984–85 assessment year and each assessment year thereafter, the provisions of Sections 255 and 260 shall be applicable to the exemption provided by this section.

(d) The exemption provided by subdivision (a) shall not apply to any aircraft loaned by any person who holds aircraft primarily for purposes of sale.

(e) The exemption provided by this section shall not apply unless the property was made available for public display in the aerospace museum for a period of 90 days during the 12-month period immediately preceding the lien date for the year for which the exemption is claimed.

If the property was first made available for public display less than 90 days prior to the lien date, the exemption may be granted if the person claiming the exemption certifies in writing that the property will be made available for public display for at least 90 days during the 12-month period commencing with the first day the property was made available for public display.

(f) For purposes of this section, "regularly open to the public" means that the aerospace museum was open to the public not less than 20 hours per week for not less than 35 weeks of the 12-month period immediately preceding the lien date for the year for which the exemption is claimed.

If the aerospace museum has been open for less than 35 weeks during the 12-month period immediately preceding the lien date or for less than 20 hours per week during that period, the exemption may be granted if the director or other officer of the aerospace museum certifies in writing that the aerospace museum will be open for not less than 20 hours per week for not less than 35 weeks during the 12-month period beginning with the date the aerospace museum was first opened.

(g) If a person certifies in writing that the property will be made available and the aerospace museum open for the periods specified in subdivisions (e) and (f), and the property is not so made available or the aerospace museum is not so opened, the exemption shall be canceled, and an escape assessment may be made as provided in Section 531.1.

(h) The exemption provided by this section shall be applicable for the 1979–80 fiscal year and each fiscal year thereafter.

SEC. 4. Section 255.2 of the Revenue and Taxation Code is amended to read:

255.2. Notwithstanding Section 255 of the Revenue and Taxation Code, any veteran who is filing for the veteran's exemption on his or her principal place of residence for the first time or who was found eligible for that exemption on his or her principal place of residence in the immediately preceding year and whose claim is timely filed but disallowed for the current year may, if otherwise qualified for the homeowner's exemption, file for the homeowner's exemption as

provided herein.

The assessor shall notify those applicants he or she finds ineligible for the veteran's exemption of his or her finding and shall inform them that they have 15 days from the date of the notice to file for the homeowner's exemption. The failure of the assessor to provide the notice required by this section shall extend the filing period for those not notified to the next lien date.

SEC. 5. Section 270 of the Revenue and Taxation Code is amended to read:

270. (a) With respect to property as to which the college, cemetery, church, religious, exhibition, veterans' organization, free public libraries, free museums, public schools, community colleges, state colleges, state universities or welfare exemption was available but for which a timely application for exemption was not filed—

(1) Ninety percent of any tax or penalty or interest thereon shall be canceled or refunded provided an appropriate application for exemption is filed on or before the first day of March of the calendar year next succeeding the calendar year in which the exemption was not claimed by a timely application; or, if the application is filed thereafter,

(2) Eighty-five percent of any tax or penalty or interest thereon shall be canceled or refunded provided an appropriate application for exemption is filed and relief is not authorized under Section 214.01 or 271.

(b) Notwithstanding the provisions of subdivision (a), any tax or penalty or interest thereon exceeding two hundred fifty dollars ($250) in total amount shall be canceled or refunded provided it is imposed upon property entitled to relief under subdivision (a) for which an appropriate claim for exemption has been filed.

(c) With respect to property as to which the welfare exemption or veterans' organization exemption was available, all provisions of Section 254.5, other than the specified dates for the filing of affidavits and other acts, are applicable to this section.

SEC. 6. Section 434.6 of the Revenue and Taxation Code is repealed.

SEC. 7. Section 759 is added to the Revenue and Taxation Code, to read:

759. (a) If the assessee fails to timely file a declaration of intent to petition for reassessment in accordance with the notice provided by the board pursuant to Section 758, an escape assessment or roll correction shall become final at the expiration of the period for the filing of a declaration of intent specified by that notice. If the assessee files a petition for reassessment within the period specified for filing a declaration of intent, no declaration of intent shall be required.

(b) If, following the timely filing of a declaration of intent to petition for reassessment, a petition for reassessment is not timely filed in accordance with the notice provided by the board pursuant to Section 758, an escape assessment or roll correction shall become final at the expiration of the period for filing a petition for

reassessment specified by that notice.

(c) The board may extend the period for filing a petition for reassessment once for a period not to exceed 15 days, provided a written request for the extension is filed with the board prior to the expiration of the noticed period for filing a petition for reassessment.

SEC. 8. Section 998 of the Revenue and Taxation Code is amended to read:

998. (a) The full value of a timeshare estate or a timeshare use subject to tax under this division shall be determined by finding the real property value of the interest involved and shall not include the value of any nonreal property items, including, but not limited to, vacation exchange rights, vacation conveniences and services, and club memberships. Accordingly, the full value of a timeshare estate or timeshare use may be determined by reference to resort properties, condominiums, cooperatives, or other properties which are similar in size, type, and location to the property subject to timeshare ownership and are not owned on a timeshare basis. The aggregate assessed value of all the timeshare estates or uses relating to a single lot, parcel, unit, or other segment of real property shall be determined by adding (1) the fair market value of the similar lot, parcel, unit, or other segment not owned on a timeshare basis, and (2) an amount necessary to reflect any increase or decrease to the market value attributable to the fact that the property is marketed in increments of time, or by any alternate method which will determine the real property value without regard to any nonreal property items which may be included.

(b) Nothing in this section shall authorize a reassessment of real property as a result of the creation or transfer of a timeshare interest in the property unless the creation or transfer of the timeshare interest constitutes a change in ownership under Chapter 2 (commencing with Section 60) of Part 2 and Section 2 of Article XIII A of the California Constitution.

(c) For purposes of this section, "timeshare estate" and "timeshare use" shall have the meanings set forth in Section 11003.5 of the Business and Professions Code, and "timeshare interest" shall refer to both timeshare estates and timeshare uses.

(d) Nothing in this section shall be construed as requiring the assessment of any property at less than fair market value as required by Section 401.

SEC. 9. Section 38351 of the Revenue and Taxation Code is amended to read:

38351. Every person who owns timber subject to a timber harvest plan, every person who is required to file a notice of timber operations with the State Forester, every person who owns timber maintained for eventual harvest as Christmas trees, and every person who is the first person who acquires either legal title or beneficial title to downed timber or timber after it has been felled from land owned by a federal agency or any other person or agency or entity exempt from state taxation under the Constitution or laws of the

United States or under the Constitution or laws of the State of California, shall register with the board giving such information as the board may require.

CHAPTER 647

An act to amend Sections 123 and 14330 of, to add Section 14335 to, and to repeal Chapter 6 (commencing with Section 17300) of Part 2 of Division 7 of, the Business and Professions Code, and to amend Section 2870 of the Labor Code, relating to intellectual property.

[Approved by Governor October 6, 1991 Filed with Secretary of State October 8, 1991]

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

SECTION 1. Section 123 of the Business and Professions Code is amended to read:

123. It is a misdemeanor for any person to engage in any conduct which subverts or attempts to subvert any licensing examination or the administration of an examination, including, but not limited to:

(a) Conduct which violates the security of the examination materials; removing from the examination room any examination materials without authorization; the unauthorized reproduction by any means of any portion of the actual licensing examination; aiding by any means the unauthorized reproduction of any portion of the actual licensing examination; paying or using professional or paid examination-takers for the purpose of reconstructing any portion of the licensing examination; obtaining examination questions or other examination material, except by specific authorization either before, during, or after an examination; or using or purporting to use any examination questions or materials which were improperly removed or taken from any examination for the purpose of instructing or preparing any applicant for examination; or selling, distributing, buying, receiving, or having unauthorized possession of any portion of a future, current, or previously administered licensing examination.

(b) Communicating with any other examinee during the administration of a licensing examination; copying answers from another examinee or permitting one's answers to be copied by another examinee; having in one's possession during the administration of the licensing examination any books, equipment, notes, written or printed materials, or data of any kind, other than the examination materials distributed, or otherwise authorized to be in one's possession during the examination; or impersonating any examinee or having an impersonator take the licensing examination on one's behalf.

Nothing in this section shall preclude prosecution under the

authority provided for in any other provision of law.

In addition to any other penalties, a person found guilty of violating this section, shall be liable for the actual damages sustained by the agency administering the examination not to exceed ten thousand dollars ($10,000) and the costs of litigation.

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

SEC. 2. Section 14330 of the Business and Professions Code is amended to read:

14330. Likelihood of injury to business reputation or of dilution of the distinctive quality of a mark registered under this chapter, or a mark valid at common law, or a trade name valid at common law, shall be a ground for injunctive relief notwithstanding the absence of competition between the parties or the absence of confusion as to the source of goods or services.

SEC. 3. Section 14335 is added to the Business and Professions Code, to read:

14335. (a) Any person who uses or unlawfully infringes upon a mark registered under this chapter or under Title 15 of the United States Code, other than in an otherwise noninfringing manner, either on the person's own goods or services or to describe the person's own goods or services, irrespective of whether the mark is used primarily as an ornament, decoration, garnishment, or embellishment on or in products, merchandise, or goods, for the purpose of enhancing the commercial value of, or selling or soliciting purchases of, products, merchandise, goods, or services, without prior consent of the owner of the mark, shall be subject to an injunction against that use by the owner of the mark.

(b) Nothing in subdivision (a) shall be construed to prohibit comparative advertising.

(c) For the purposes of this section, the term "comparative advertising" means the use of a competitor's trademark in advertising to compare the relative qualities of the competitive goods.

SEC. 4. Chapter 6 (commencing with Section 17300) of Part 2 of Division 7 of the Business and Professions Code is repealed.

SEC. 5. Section 2870 of the Labor Code is amended to read:

2870. (a) Any provision in an employment agreement which provides that an employee shall assign, or offer to assign, any of his or her rights in an invention to his or her employer shall not apply to an invention that the employee developed entirely on his or her own time without using the employer's equipment, supplies, facilities, or trade secret information except for those inventions that either:

(1) Relate at the time of conception or reduction to practice of the invention to the employer's business, or actual or demonstrably

anticipated research or development of the employer; or

(2) Result from any work performed by the employee for the employer.

(b) To the extent a provision in an employment agreement purports to require an employee to assign an invention otherwise excluded from being required to be assigned under subdivision (a), the provision is against the public policy of this state and is unenforceable.

CHAPTER 648

An act to amend Section 35002 of, and to add Section 521 to, the Vehicle Code, relating to vehicles.

[Approved by Governor October 6, 1991. Filed with Secretary of State October 8, 1991.]

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

SECTION 1. Section 521 is added to the Vehicle Code, to read:

521. A "retarder" is a device, other than a brake, which, when activated by the driver, applies a retarding force to the wheels of a vehicle without the use of friction. A retarder may be installed in or on the engine, exhaust system, drive train, or wheels of a motor vehicle, or an axle or wheels of a towed vehicle. A retarder may operate by altering the valve timing of the engine, by controlling the flow of a circulating fluid, by applying an electromagnetic force, by controlling the release of gases from the exhaust system, or by other means. A retarder may or may not be capable of stopping the vehicle upon which it is installed.

SEC. 2. Section 35002 of the Vehicle Code is amended to read:

35002. (a) This division does not apply to any authorized emergency vehicle owned or operated by a governmental agency while being used in responding to and returning from emergency fire calls, while being moved from place to place in anticipation of emergency fire calls, when used during training in any fire service application or during fire prevention activities, or when vehicles ordinarily used for those purposes are necessarily transported for vehicle maintenance, repair, or service. This subdivision only applies to vehicles purchased prior to January 1, 1992.

(b) All vehicles purchased on and after January 1, 1992, and described in subdivision (a) shall comply with applicable permit requirements adopted by the Department of Transportation pursuant to this code, and shall meet the following requirements:

(1) It shall be the responsibility of the manufacturer to provide a gross axle weight rating (GAWR), gross combined weight rating (GCWR), and gross vehicle weight rating (GVWR), adequate to carry a full water tank with the allowance for personnel and

miscellaneous equipment, including hose load, shown in the table below:

	Personnel	Misc. Equipment
Pumpers	1,200 lbs.	2,000 lbs.
Light attack apparatus	600 lbs.	900 lbs.
Water towers	1,200 lbs.	1,500 lbs.
Aerial platforms with ground ladders	1,200 lbs.	2,500 lbs.
Aerial ladders with ground ladders	1,200 lbs.	2,500 lbs.

Fire apparatus shall be weighed and certified by the manufacturer to determine compliance with the table above prior to acceptance by the purchaser. Apparatus and chassis manufacturers shall furnish certification of the gross vehicle weight rating (GVWR), gross combined weight rating (GCWR), and gross axle weight rating (GAWR) on a nameplate affixed to the apparatus.

(2) Any fire apparatus exceeding 31,000 pounds gross vehicle weight rating (GVWR) shall be equipped with a retarder.

(3) For purposes of this section, a "fire apparatus" is any vehicle or combination of vehicles designed, maintained, and used exclusively for the suppression of fires or for fire prevention activities, including the training of firefighters. A tank vehicle owned by a regularly organized fire suppression agency and used to transport water or other fire suppression materials is a fire apparatus. A vehicle or combination of vehicles which is not designed specifically for fire suppression, including, but not limited to, a hazardous materials response vehicle, dedicated rescue vehicle, command post communications vehicle, passenger vehicle, bus, mobile kitchen, mobile sanitation facility, and heavy equipment transport vehicle, are not a fire apparatus for purposes of this section.

(c) A vehicle owned, operated, or rented by any public agency which is being used in responding to or returning from an emergency, may be operated as required, if a reasonable effort is first made by the agency to obtain verbal permission from an authorized officer or employee of the agency having jurisdiction of the highways used, and, upon termination of the emergency, when the vehicle is returning from the site of the emergency, the public agency either obtains a permit at the location of the emergency or makes a reasonable effort to obtain verbal permission from an authorized officer or employee of the agency having jurisdiction of the highways used, and obtains a written permit for that use pursuant to Section 35780 not later than three days after the date of the emergency. As used in this subdivision, "emergency" means a condition which poses an imminent threat of loss of property or a hazard to life, as determined by the public agency charged with responsibility to

respond thereto.

(d) Any governmental agency operating an authorized emergency vehicle or other vehicle subject to this section is liable to the governmental agency having jurisdiction of any state or county highway for any damage to the highway or any highway structure caused by the operation of the vehicle of a size or weight of vehicle or load exceeding that specified in this division. The cost of repair of the damage is a proper charge against the support fund of the governmental agency operating the oversize or overweight vehicle.

(e) Neither the state nor any agency thereof is liable for damage to any highway or highway structure caused by vehicles operated, pursuant to this section, by or on behalf of a local authority or any other local governmental entity.

CHAPTER 649

An act to amend Section 800 of the Welfare and Institutions Code, relating to minors.

[Approved by Governor October 6, 1991 Filed with Secretary of State October 8, 1991]

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

SECTION 1. Section 800 of the Welfare and Institutions Code is amended to read:

800. (a) A judgment in a proceeding under Section 601 or 602 may be appealed from, by the minor, in the same manner as any final judgment, and any subsequent order may be appealed from, by the minor, as from an order after judgment. Pending appeal of the order or judgment, the granting or refusal to order release shall rest in the discretion of the juvenile court. The appeal shall have precedence over all other cases in the court to which the appeal is taken.

A ruling on a motion to suppress pursuant to Section 700.1 shall be reviewed on appeal even if the judgment is predicated upon an admission of the allegations of the petition.

A judgment or subsequent order entered by a referee shall become appealable whenever proceedings pursuant to Section 252, 253, or 254 have become completed or, if proceedings pursuant to Section 252, 253, or 254 are not initiated, when the time for initiating the proceedings has expired.

(b) An appeal may be taken by the people from any of the following:

(1) A ruling on a motion to suppress pursuant to Section 700.1 even if the judgment is a dismissal of the petition or any count or counts of the petition. However, no appeal by the people shall lie as to any count which, if the people are successful, will be the basis for further proceedings subjecting any person to double jeopardy.

(2) An order made after judgment entered pursuant to Section 777.

(3) An order modifying the jurisdictional finding by reducing the degree of the offense or modifying the offense to a lesser offense.

(4) An order or judgment dismissing or otherwise terminating the action before the minor has been placed in jeopardy, or where the minor has waived jeopardy. If, pursuant to this paragraph, the people prosecute an appeal of the decision or any review of that decision, it shall be binding upon the people and they shall be prohibited from refiling the case which was appealed.

(5) The imposition of an unlawful order at a dispositional hearing, whether or not the court suspends the execution of the disposition.

(c) Nothing contained in this section shall be construed to authorize an appeal from an order granting probation. Instead, the people may seek appellate review of any grant of probation, whether or not the court imposes disposition, by means of a petition for a writ of mandate or prohibition which is filed within 60 days after probation is granted. The review of any grant of probation shall include review of any order underlying the grant of probation.

(d) An appellant unable to afford counsel, shall be provided a free copy of the transcript in any appeal.

(e) The record shall be prepared and transmitted immediately after filing of the notice of appeal, without advance payment of fees. If the appellant is able to afford counsel, the county may seek reimbursement for the cost of the transcripts under subdivision (c) of Section 68511.3 of the Government Code as though the appellant had been granted permission to proceed in forma pauperis.

(f) All appeals shall be initiated by the filing of notice of appeal in conformity with the requirements of Section 1240.1 of the Penal Code.

CHAPTER 650

An act to amend Section 1803.3 of the Vehicle Code, relating to driving records.

[Approved by Governor October 6, 1991 Filed with Secretary of State October 8, 1991]

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

SECTION 1. Section 1803.3 of the Vehicle Code is amended to read:

1803.3. (a) The clerk, or judge if there is no clerk, of any court which reverses a conviction for an offense described in subdivision (a) of Section 1803, which is not exempted under subdivision (b) of that section, shall prepare and forward to the department at its office in Sacramento an abstract of the record of the court covering the case

in which the conviction was reversed. In addition, if a court dismisses a charge of a violation of Section 40508 for which a notice was given to the department pursuant to Section 40509 or 40509.5, the court shall notify the department of the dismissal.

(b) The abstract shall be forwarded within 30 days of the date the judgment of reversal becomes final. The notice of dismissal shall be given to the department not later than 30 days after the dismissal. Within 30 days of receiving the abstract or notice, the department shall remove any record of that conviction, or notice received pursuant to Section 40509 or 40509.5, from the driver's record.

(c) As used in this section, "reverse" includes any action by which a conviction is nullified or set aside.

SEC. 2. No reimbursement shall be made from the State Mandates Claims Fund pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code for costs mandated by the state pursuant to this act. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Part 7 (commencing with Section 17500) and any other provisions of law. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 651

An act to amend Sections 40509 and 40509.5 of, and to amend Section 26854 of, and to repeal Section 72062 of, the Government Code, and to add Section 40508.6 to, the Vehicle Code, relating to records.

[Approved by Governor October 6, 1991 Filed with Secretary of State October 8, 1991.]

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

SECTION 1. Section 26854 of the Government Code is amended to read:

26854. The fee for searching records or files is five dollars ($5) for each file.

SEC. 2. Section 72062 of the Government Code is repealed.

SEC. 3. Section 40508.6 is added to the Vehicle Code, to read:

40508.6. The Legislature hereby authorizes the establishment of the following program, to be implemented in any county, upon the adoption of a resolution by the board of supervisors authorizing it. For the superior court and each municipal court or justice court district in the county, a board of supervisors may establish administrative assessments, not to exceed ten dollars ($10), for

clerical and administrative costs incurred for the following activities:

(a) An assessment for the cost of recording and maintaining a record of the defendant's prior convictions for violations of the this code. The assessment shall be payable at the time of payment of a fine or when bail is forfeited for any subsequent violations of this code other than parking, pedestrian, or bicycle violations.

(b) An assessment for all defendants whose driver's license or automobile registration is attached or restricted pursuant to Section 40509 or 40509.5, to cover the cost of notifying the Department of Motor Vehicles of the attachment or restriction.

SEC. 4. Section 40509 of the Vehicle Code is amended to read:

40509. (a) Whenever any person has for a period of 15 or more days violated his or her written promise to appear or a lawfully granted continuance of his or her promise to appear in court or before the person authorized to receive a deposit of bail or violated an order to appear in court, the magistrate or clerk of the court may give notice of the fact to the department for any violation of this code, or any violation of any other statute relating to the safe operation of a vehicle, except violations not required to be reported pursuant to paragraphs (1), (2), (3), (6), (7), and (8) of subdivision (b) of Section 1803. The notice shall be given within 60 days of the failure to appear. Whenever thereafter the case in which the promise was given is adjudicated or the person who has violated the court order appears in court and satisfies the order of the court, the magistrate or clerk of the court hearing the case shall sign and file with the department a certificate to that effect.

(b) Whenever any person has, for a period of 15 or more days, willfully failed to pay a lawfully imposed fine within the time authorized by the court or to pay a fine pursuant to subdivision (a) of Section 42003, the magistrate or clerk of the court may give notice of the fact to the department for any violation, except violations not required to be reported pursuant to paragraphs (1), (2), (3), (6), (7), and (8) of subdivision (b) of Section 1803. Whenever thereafter the fine is fully paid, the magistrate or clerk of the court shall issue and file with the department a certificate showing that the fine has been paid.

(c) (1) Notwithstanding subdivisions (a) and (b), the court may elect to notify the department of the total amount of bail, fines, assessments, and fees authorized or required by this code, including Section 40508.5, which are unpaid by any person.

(2) Once a court has established the amount of a fine and any assessments, and notified the department, the court shall not further enhance or modify that amount.

(3) This subdivision applies only to violations of this code that do not require a mandatory court appearance, are not contested by the defendant, and do not require proof of correction certified by the court.

(d) This section is applicable to any court which has not elected to be subject to the notice requirements of subdivision (b) of Section

40509.5.

(e) Any violation subject to Section 40001, which is the responsibility of the owner of the vehicle, shall not be reported under this section.

SEC. 5. Section 40509.5 of the Vehicle Code is amended to read:

40509.5. (a) Whenever, with respect to an offense described in subdivision (d), any person has, for a period of 15 or more days, violated his or her written promise to appear or a lawfully granted continuance of his or her promise to appear in court or before the person authorized to receive a deposit of bail or violated an order to appear in court, the magistrate or clerk of the court may give notice of the fact to the department for any violation of this code, or any violation of any other statute relating to the safe operation of a vehicle, except violations not required to be reported pursuant to paragraphs (1), (2), (3), (6), and (7) of subdivision (b) of Section 1803. The notice shall be given within 60 days of the failure to appear. Whenever thereafter the case in which the promise was given is adjudicated or the person who has violated the court order appears in court and satisfies the order of the court, the magistrate or clerk of the court hearing the case shall sign and file with the department a certificate to that effect.

(b) Whenever, with respect to an offense described in subdivision (d), any person has, for a period of 15 or more days, willfully failed to pay a lawfully imposed fine within the time authorized by the court or to pay a fine pursuant to subdivision (a) of Section 42003, the magistrate or clerk of the court may give notice of the fact to the department for any violation, except violations not required to be reported pursuant to paragraphs (1), (2), (3), (6), and (7) of subdivision (b) of Section 1803. Whenever thereafter the fine is fully paid, the magistrate or clerk of the court shall issue and file with the department a certificate showing that the fine has been paid.

(c) The court shall mail a courtesy warning notice to the defendant by first-class mail at the address shown on the notice to appear, at least 10 days before sending a notice to the department under this section.

(d) If the court notifies the department of a failure to appear or pay a fine pursuant to this section, no arrest warrant shall be issued for an alleged violation of subdivision (a) or (b) of Section 40508 or of a court order issued pursuant to subdivision (a) of Section 42003, unless one of the following criteria is met:

(1) The alleged underlying offense is a misdemeanor or felony.

(2) The alleged underlying offense is a violation of any provision of Division 12 (commencing with Section 24000), Division 13 (commencing with Section 29000), or Division 15 (commencing with Section 35000), required to be reported pursuant to Section 1803.

(3) The driver's record does not show that the defendant has a valid California driver's license.

(4) The driver's record shows an unresolved charge that the defendant is in violation of his or her written promise to appear for

one or more other alleged violations of the law.

(e) In addition to the proceedings described in this section, the court may elect to notify the department pursuant to subdivision (d) of Section 40509.

(f) This section is applicable to courts which have elected to provide notice pursuant to subdivision (b). The method of commencing or terminating an election to proceed under this section shall be prescribed by the department.

(g) Any violation subject to Section 40001, which is the responsibility of the owner of the vehicle, shall not be reported under this section.

CHAPTER 652

An act to add Sections 17507.5, 17695.45, 17696.45, 17697.42, 17698.45, 19976.5, 67340.5, and 67358 to the Education Code, to add Section 2644.5 to the Fish and Game Code, to add Sections 8878.315 and 66962.5 to the Government Code, to add Sections 25386.25, 52532.5, 53176.2, and 53207.5 to the Health and Safety Code, to add Sections 4419.5, 4489.5, 4496.43, 7309.5, and 7409.5 to the Penal Code, to add Sections 5096.1175, 5096.2055, 5096.2595, 5733.5, and 5936.5 to the Public Resources Code, to add Section 99694.2 to the Public Utilities Code, to add Section 2701.24 to the Streets and Highways Code, and to add Sections 12879.135, 12938.2, 13462.5, 13842.5, 13872.5, 13898.25, 13966.5, 13980.5, 13995.5, 13999.19, 14036.5, and 14076 to the Water Code, relating to state bonds.

[Approved by Governor October 6, 1991 Filed with Secretary of State October 8, 1991]

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

SECTION 1. Section 17507.5 is added to the Education Code, to read:

17507.5. Notwithstanding any other provision of this bond act, or of the State General Obligation Bond Law (Chapter 4 (commencing with Section 16720) of Part 3 of Division 4 of Title 2 of the Government Code), if the Treasurer sells bonds pursuant to this bond act that include a bond counsel opinion to the effect that the interest on the bonds is excluded from gross income for federal tax purposes under designated conditions, the Treasurer may maintain separate accounts for the bond proceeds invested and the investment earnings on those proceeds, and may use or direct the use of those proceeds or earnings to pay any rebate, penalty, or other payment required under federal law, or take any other action with respect to the investment and use of those bond proceeds, as may be required or desirable under federal law in order to maintain the tax-exempt status of those bonds and to obtain any other advantage

under federal law on behalf of the funds of this state.

SEC. 2. Section 17695.45 is added to the Education Code, to read:

17695.45. Notwithstanding any other provision of this bond act, or of the State General Obligation Bond Law (Chapter 4 (commencing with Section 16720) of Part 3 of Division 4 of Title 2 of the Government Code), if the Treasurer sells bonds pursuant to this bond act that include a bond counsel opinion to the effect that the interest on the bonds is excluded from gross income for federal tax purposes under designated conditions, the Treasurer may maintain separate accounts for the bond proceeds invested and the investment earnings on those proceeds, and may use or direct the use of those proceeds or earnings to pay any rebate, penalty, or other payment required under federal law, or take any other action with respect to the investment and use of those bond proceeds, as may be required or desirable under federal law in order to maintain the tax-exempt status of those bonds and to obtain any other advantage under federal law on behalf of the funds of this state.

SEC. 3. Section 17696.45 is added to the Education Code, to read:

17696.45. Notwithstanding any other provision of this bond act, or of the State General Obligation Bond Law (Chapter 4 (commencing with Section 16720) of Part 3 of Division 4 of Title 2 of the Government Code), if the Treasurer sells bonds pursuant to this bond act that include a bond counsel opinion to the effect that the interest on the bonds is excluded from gross income for federal tax purposes under designated conditions, the Treasurer may maintain separate accounts for the bond proceeds invested and the investment earnings on those proceeds, and may use or direct the use of those proceeds or earnings to pay any rebate, penalty, or other payment required under federal law, or take any other action with respect to the investment and use of those bond proceeds, as may be required or desirable under federal law in order to maintain the tax-exempt status of those bonds and to obtain any other advantage under federal law on behalf of the funds of this state.

SEC. 4. Section 17697.42 is added to the Education Code, to read:

17697.42. Notwithstanding any other provision of this bond act, or of the State General Obligation Bond Law (Chapter 4 (commencing with Section 16720) of Part 3 of Division 4 of Title 2 of the Government Code), if the Treasurer sells bonds pursuant to this bond act that include a bond counsel opinion to the effect that the interest on the bonds is excluded from gross income for federal tax purposes under designated conditions, the Treasurer may maintain separate accounts for the bond proceeds invested and the investment earnings on those proceeds, and may use or direct the use of those proceeds or earnings to pay any rebate, penalty, or other payment required under federal law, or take any other action with respect to the investment and use of those bond proceeds, as may be required or desirable under federal law in order to maintain the tax-exempt status of those bonds and to obtain any other advantage under federal law on behalf of the funds of this state.

SEC. 5. Section 17698.45 is added to the Education Code, to read:

17698.45. Notwithstanding any other provision of this bond act, or of the State General Obligation Bond Law (Chapter 4 (commencing with Section 16720) of Part 3 of Division 4 of Title 2 of the Government Code), if the Treasurer sells bonds pursuant to this bond act that include a bond counsel opinion to the effect that the interest on the bonds is excluded from gross income for federal tax purposes under designated conditions, the Treasurer may maintain separate accounts for the bond proceeds invested and the investment earnings on those proceeds, and may use or direct the use of those proceeds or earnings to pay any rebate, penalty, or other payment required under federal law, or take any other action with respect to the investment and use of those bond proceeds, as may be required or desirable under federal law in order to maintain the tax-exempt status of those bonds and to obtain any other advantage under federal law on behalf of the funds of this state.

SEC. 6. Section 19976.5 is added to the Education Code, to read:

19976.5. Notwithstanding any other provision of this bond act, or of the State General Obligation Bond Law (Chapter 4 (commencing with Section 16720) of Part 3 of Division 4 of Title 2 of the Government Code), if the Treasurer sells bonds pursuant to this bond act that include a bond counsel opinion to the effect that the interest on the bonds is excluded from gross income for federal tax purposes under designated conditions, the Treasurer may maintain separate accounts for the bond proceeds invested and the investment earnings on those proceeds, and may use or direct the use of those proceeds or earnings to pay any rebate, penalty, or other payment required under federal law, or take any other action with respect to the investment and use of those bond proceeds, as may be required or desirable under federal law in order to maintain the tax-exempt status of those bonds and to obtain any other advantage under federal law on behalf of the funds of this state.

SEC. 7. Section 67340.5 is added to the Education Code, to read:

67340.5. Notwithstanding any other provision of this bond act, or of the State General Obligation Bond Law (Chapter 4 (commencing with Section 16720) of Part 3 of Division 4 of Title 2 of the Government Code), if the Treasurer sells bonds pursuant to this bond act that include a bond counsel opinion to the effect that the interest on the bonds is excluded from gross income for federal tax purposes under designated conditions, the Treasurer may maintain separate accounts for the bond proceeds invested and the investment earnings on those proceeds, and may use or direct the use of those proceeds or earnings to pay any rebate, penalty, or other payment required under federal law, or take any other action with respect to the investment and use of those bond proceeds, as may be required or desirable under federal law in order to maintain the tax-exempt status of those bonds and to obtain any other advantage under federal law on behalf of the funds of this state.

SEC. 8. Section 67358 is added to the Education Code, to read:

67358. Notwithstanding any other provision of this bond act, or of the State General Obligation Bond Law (Chapter 4 (commencing with Section 16720) of Part 3 of Division 4 of Title 2 of the Government Code), if the Treasurer sells bonds pursuant to this bond act that include a bond counsel opinion to the effect that the interest on the bonds is excluded from gross income for federal tax purposes under designated conditions, the Treasurer may maintain separate accounts for the bond proceeds invested and the investment earnings on those proceeds, and may use or direct the use of those proceeds or earnings to pay any rebate, penalty, or other payment required under federal law, or take any other action with respect to the investment and use of those bond proceeds, as may be required or desirable under federal law in order to maintain the tax-exempt status of those bonds and to obtain any other advantage under federal law on behalf of the funds of this state.

SEC. 9. Section 2644.5 is added to the Fish and Game Code, to read:

2644.5. Notwithstanding any other provision of this bond act, or of the State General Obligation Bond Law (Chapter 4 (commencing with Section 16720) of Part 3 of Division 4 of Title 2 of the Government Code), if the Treasurer sells bonds pursuant to this bond act that include a bond counsel opinion to the effect that the interest on the bonds is excluded from gross income for federal tax purposes under designated conditions, the Treasurer may maintain separate accounts for the bond proceeds invested and the investment earnings on those proceeds, and may use or direct the use of those proceeds or earnings to pay any rebate, penalty, or other payment required under federal law, or take any other action with respect to the investment and use of those bond proceeds, as may be required or desirable under federal law in order to maintain the tax-exempt status of those bonds and to obtain any other advantage under federal law on behalf of the funds of this state.

SEC. 10. Section 8878.315 is added to the Government Code, to read:

8878.315. Notwithstanding any other provision of this bond act, or of the State General Obligation Bond Law (Chapter 4 (commencing with Section 16720) of Part 3 of Division 4 of Title 2), if the Treasurer sells bonds pursuant to this bond act that include a bond counsel opinion to the effect that the interest on the bonds is excluded from gross income for federal tax purposes under designated conditions, the Treasurer may maintain separate accounts for the bond proceeds invested and the investment earnings on those proceeds, and may use or direct the use of those proceeds or earnings to pay any rebate, penalty, or other payment required under federal law, or take any other action with respect to the investment and use of those bond proceeds, as may be required or desirable under federal law in order to maintain the tax-exempt status of those bonds and to obtain any other advantage under federal law on behalf of the funds of this state.

SEC. 11. Section 66962.5 is added to the Government Code, to

read:

66962.5. Notwithstanding any other provision of this bond act, or of the State General Obligation Bond Law (Chapter 4 (commencing with Section 16720) of Part 3 of Division 4 of Title 2), if the Treasurer sells bonds pursuant to this bond act that include a bond counsel opinion to the effect that the interest on the bonds is excluded from gross income for federal tax purposes under designated conditions, the Treasurer may maintain separate accounts for the bond proceeds invested and the investment earnings on those proceeds, and may use or direct the use of those proceeds or earnings to pay any rebate, penalty, or other payment required under federal law, or take any other action with respect to the investment and use of those bond proceeds, as may be required or desirable under federal law in order to maintain the tax-exempt status of those bonds and to obtain any other advantage under federal law on behalf of the funds of this state.

SEC. 12. Section 25386.25 is added to the Health and Safety Code, to read:

25386.25. Notwithstanding any other provision of this bond act, or of the State General Obligation Bond Law (Chapter 4 (commencing with Section 16720) of Part 3 of Division 4 of Title 2 of the Government Code), if the Treasurer sells bonds pursuant to this bond act that include a bond counsel opinion to the effect that the interest on the bonds is excluded from gross income for federal tax purposes under designated conditions, the Treasurer may maintain separate accounts for the bond proceeds invested and the investment earnings on those proceeds, and may use or direct the use of those proceeds or earnings to pay any rebate, penalty, or other payment required under federal law, or take any other action with respect to the investment and use of those bond proceeds, as may be required or desirable under federal law in order to maintain the tax-exempt status of those bonds and to obtain any other advantage under federal law on behalf of the funds of this state.

SEC. 13. Section 52532.5 is added to the Health and Safety Code, to read:

52532.5. Notwithstanding any other provision of this bond act, or of the State General Obligation Bond Law (Chapter 4 (commencing with Section 16720) of Part 3 of Division 4 of Title 2 of the Government Code), if the Treasurer sells bonds pursuant to this bond act that include a bond counsel opinion to the effect that the interest on the bonds is excluded from gross income for federal tax purposes under designated conditions, the Treasurer may maintain separate accounts for the bond proceeds invested and the investment earnings on those proceeds, and may use or direct the use of those proceeds or earnings to pay any rebate, penalty, or other payment required under federal law, or take any other action with respect to the investment and use of those bond proceeds, as may be required or desirable under federal law in order to maintain the tax-exempt status of those bonds and to obtain any other advantage under federal law on behalf of the funds of this state.

SEC. 14. Section 53176.2 is added to the Health and Safety Code, to read:

53176.2. Notwithstanding any other provision of this bond act, or of the State General Obligation Bond Law (Chapter 4 (commencing with Section 16720) of Part 3 of Division 4 of Title 2 of the Government Code), if the Treasurer sells bonds pursuant to this bond act that include a bond counsel opinion to the effect that the interest on the bonds is excluded from gross income for federal tax purposes under designated conditions, the Treasurer may maintain separate accounts for the bond proceeds invested and the investment earnings on those proceeds, and may use or direct the use of those proceeds or earnings to pay any rebate, penalty, or other payment required under federal law, or take any other action with respect to the investment and use of those bond proceeds, as may be required or desirable under federal law in order to maintain the tax-exempt status of those bonds and to obtain any other advantage under federal law on behalf of the funds of this state.

SEC. 15. Section 53207.5 is added to the Health and Safety Code, to read:

53207.5. Notwithstanding any other provision of this bond act, or of the State General Obligation Bond Law (Chapter 4 (commencing with Section 16720) of Part 3 of Division 4 of Title 2 of the Government Code), if the Treasurer sells bonds pursuant to this bond act that include a bond counsel opinion to the effect that the interest on the bonds is excluded from gross income for federal tax purposes under designated conditions, the Treasurer may maintain separate accounts for the bond proceeds invested and the investment earnings on those proceeds, and may use or direct the use of those proceeds or earnings to pay any rebate, penalty, or other payment required under federal law, or take any other action with respect to the investment and use of those bond proceeds, as may be required or desirable under federal law in order to maintain the tax-exempt status of those bonds and to obtain any other advantage under federal law on behalf of the funds of this state.

SEC. 16. Section 4419.5 is added to the Penal Code, to read:

4419.5. Notwithstanding any other provision of this bond act, or of the State General Obligation Bond Law (Chapter 4 (commencing with Section 16720) of Part 3 of Division 4 of Title 2 of the Government Code), if the Treasurer sells bonds pursuant to this bond act that include a bond counsel opinion to the effect that the interest on the bonds is excluded from gross income for federal tax purposes under designated conditions, the Treasurer may maintain separate accounts for the bond proceeds invested and the investment earnings on those proceeds, and may use or direct the use of those proceeds or earnings to pay any rebate, penalty, or other payment required under federal law, or take any other action with respect to the investment and use of those bond proceeds, as may be required or desirable under federal law in order to maintain the tax-exempt status of those bonds and to obtain any other advantage

under federal law on behalf of the funds of this state.

SEC. 17. Section 4489.5 is added to the Penal Code, to read:

4489.5. Notwithstanding any other provision of this bond act, or of the State General Obligation Bond Law (Chapter 4 (commencing with Section 16720) of Part 3 of Division 4 of Title 2 of the Government Code), if the Treasurer sells bonds pursuant to this bond act that include a bond counsel opinion to the effect that the interest on the bonds is excluded from gross income for federal tax purposes under designated conditions, the Treasurer may maintain separate accounts for the bond proceeds invested and the investment earnings on those proceeds, and may use or direct the use of those proceeds or earnings to pay any rebate, penalty, or other payment required under federal law, or take any other action with respect to the investment and use of those bond proceeds, as may be required or desirable under federal law in order to maintain the tax-exempt status of those bonds and to obtain any other advantage under federal law on behalf of the funds of this state.

SEC. 18. Section 4496.43 is added to the Penal Code, to read:

4496.43. Notwithstanding any other provision of this bond act, or of the State General Obligation Bond Law (Chapter 4 (commencing with Section 16720) of Part 3 of Division 4 of Title 2 of the Government Code), if the Treasurer sells bonds pursuant to this bond act that include a bond counsel opinion to the effect that the interest on the bonds is excluded from gross income for federal tax purposes under designated conditions, the Treasurer may maintain separate accounts for the bond proceeds invested and the investment earnings on those proceeds, and may use or direct the use of those proceeds or earnings to pay any rebate, penalty, or other payment required under federal law, or take any other action with respect to the investment and use of those bond proceeds, as may be required or desirable under federal law in order to maintain the tax-exempt status of those bonds and to obtain any other advantage under federal law on behalf of the funds of this state.

SEC. 19. Section 7309.5 is added to the Penal Code, to read:

7309.5. Notwithstanding any other provision of this bond act, or of the State General Obligation Bond Law (Chapter 4 (commencing with Section 16720) of Part 3 of Division 4 of Title 2 of the Government Code), if the Treasurer sells bonds pursuant to this bond act that include a bond counsel opinion to the effect that the interest on the bonds is excluded from gross income for federal tax purposes under designated conditions, the Treasurer may maintain separate accounts for the bond proceeds invested and the investment earnings on those proceeds, and may use or direct the use of those proceeds or earnings to pay any rebate, penalty, or other payment required under federal law, or take any other action with respect to the investment and use of those bond proceeds, as may be required or desirable under federal law in order to maintain the tax-exempt status of those bonds and to obtain any other advantage under federal law on behalf of the funds of this state.

SEC. 20. Section 7409.5 is added to the Penal Code, to read:

7409.5. Notwithstanding any other provision of this bond act, or of the State General Obligation Bond Law (Chapter 4 (commencing with Section 16720) of Part 3 of Division 4 of Title 2 of the Government Code), if the Treasurer sells bonds pursuant to this bond act that include a bond counsel opinion to the effect that the interest on the bonds is excluded from gross income for federal tax purposes under designated conditions, the Treasurer may maintain separate accounts for the bond proceeds invested and the investment earnings on those proceeds, and may use or direct the use of those proceeds or earnings to pay any rebate, penalty, or other payment required under federal law, or take any other action with respect to the investment and use of those bond proceeds, as may be required or desirable under federal law in order to maintain the tax-exempt status of those bonds and to obtain any other advantage under federal law on behalf of the funds of this state.

SEC. 21. Section 5096.1175 is added to the Public Resources Code, to read:

5096.1175. Notwithstanding any other provision of this bond act, or of the State General Obligation Bond Law (Chapter 4 (commencing with Section 16720) of Part 3 of Division 4 of Title 2 of the Government Code), if the Treasurer sells bonds pursuant to this bond act that include a bond counsel opinion to the effect that the interest on the bonds is excluded from gross income for federal tax purposes under designated conditions, the Treasurer may maintain separate accounts for the bond proceeds invested and the investment earnings on those proceeds, and may use or direct the use of those proceeds or earnings to pay any rebate, penalty, or other payment required under federal law, or take any other action with respect to the investment and use of those bond proceeds, as may be required or desirable under federal law in order to maintain the tax-exempt status of those bonds and to obtain any other advantage under federal law on behalf of the funds of this state.

SEC. 22. Section 5096.2055 is added to the Public Resources Code, to read:

5096.2055. Notwithstanding any other provision of this bond act, or of the State General Obligation Bond Law (Chapter 4 (commencing with Section 16720) of Part 3 of Division 4 of Title 2 of the Government Code), if the Treasurer sells bonds pursuant to this bond act that include a bond counsel opinion to the effect that the interest on the bonds is excluded from gross income for federal tax purposes under designated conditions, the Treasurer may maintain separate accounts for the bond proceeds invested and the investment earnings on those proceeds, and may use or direct the use of those proceeds or earnings to pay any rebate, penalty, or other payment required under federal law, or take any other action with respect to the investment and use of those bond proceeds, as may be required or desirable under federal law in order to maintain the tax-exempt status of those bonds and to obtain any other advantage

under federal law on behalf of the funds of this state.

SEC. 23. Section 5096.2595 is added to the Public Resources Code, to read:

5096.2595. Notwithstanding any other provision of this bond act, or of the State General Obligation Bond Law (Chapter 4 (commencing with Section 16720) of Part 3 of Division 4 of Title 2 of the Government Code), if the Treasurer sells bonds pursuant to this bond act that include a bond counsel opinion to the effect that the interest on the bonds is excluded from gross income for federal tax purposes under designated conditions, the Treasurer may maintain separate accounts for the bond proceeds invested and the investment earnings on those proceeds, and may use or direct the use of those proceeds or earnings to pay any rebate, penalty, or other payment required under federal law, or take any other action with respect to the investment and use of those bond proceeds, as may be required or desirable under federal law in order to maintain the tax-exempt status of those bonds and to obtain any other advantage under federal law on behalf of the funds of this state.

SEC. 24. Section 5733.5 is added to the Public Resources Code, to read:

5733.5. Notwithstanding any other provision of this bond act, or of the State General Obligation Bond Law (Chapter 4 (commencing with Section 16720) of Part 3 of Division 4 of Title 2 of the Government Code), if the Treasurer sells bonds pursuant to this bond act that include a bond counsel opinion to the effect that the interest on the bonds is excluded from gross income for federal tax purposes under designated conditions, the Treasurer may maintain separate accounts for the bond proceeds invested and the investment earnings on those proceeds, and may use or direct the use of those proceeds or earnings to pay any rebate, penalty, or other payment required under federal law, or take any other action with respect to the investment and use of those bond proceeds, as may be required or desirable under federal law in order to maintain the tax-exempt status of those bonds and to obtain any other advantage under federal law on behalf of the funds of this state.

SEC. 25. Section 5936.5 is added to the Public Resources Code, to read:

5936.5. Notwithstanding any other provision of this bond act, or of the State General Obligation Bond Law (Chapter 4 (commencing with Section 16720) of Part 3 of Division 4 of Title 2 of the Government Code), if the Treasurer sells bonds pursuant to this bond act that include a bond counsel opinion to the effect that the interest on the bonds is excluded from gross income for federal tax purposes under designated conditions, the Treasurer may maintain separate accounts for the bond proceeds invested and the investment earnings on those proceeds, and may use or direct the use of those proceeds or earnings to pay any rebate, penalty, or other payment required under federal law, or take any other action with respect to the investment and use of those bond proceeds, as may be

required or desirable under federal law in order to maintain the tax-exempt status of those bonds and to obtain any other advantage under federal law on behalf of the funds of this state.

SEC. 26. Section 99694.2 is added to the Public Utilities Code, to read:

99694.2. Notwithstanding any other provision of this bond act, or of the State General Obligation Bond Law (Chapter 4 (commencing with Section 16720) of Part 3 of Division 4 of Title 2 of the Government Code), if the Treasurer sells bonds pursuant to this bond act that include a bond counsel opinion to the effect that the interest on the bonds is excluded from gross income for federal tax purposes under designated conditions, the Treasurer may maintain separate accounts for the bond proceeds invested and the investment earnings on those proceeds, and may use or direct the use of those proceeds or earnings to pay any rebate, penalty, or other payment required under federal law, or take any other action with respect to the investment and use of those bond proceeds, as may be required or desirable under federal law in order to maintain the tax-exempt status of those bonds and to obtain any other advantage under federal law on behalf of the funds of this state.

SEC. 27. Section 2701.24 is added to the Streets and Highways Code, to read:

2701.24. Notwithstanding Section 2701.22 or any other provision of this bond act, or of the State General Obligation Bond Law (Chapter 4 (commencing with Section 16720) of Part 3 of Division 4 of Title 2 of the Government Code), if the Treasurer sells bonds pursuant to this bond act that include a bond counsel opinion to the effect that the interest on the bonds is excluded from gross income for federal tax purposes under designated conditions, the Treasurer may maintain separate accounts for the bond proceeds invested and the investment earnings on those proceeds, and may use or direct the use of those proceeds or earnings to pay any rebate, penalty, or other payment required under federal law, or take any other action with respect to the investment and use of those bond proceeds, as may be required or desirable under federal law in order to maintain the tax-exempt status of those bonds and to obtain any other advantage under federal law on behalf of the funds of this state.

SEC. 28. Section 12879.135 is added to the Water Code, to read:

12879.135. Notwithstanding any other provision of this bond act, or of the State General Obligation Bond Law (Chapter 4 (commencing with Section 16720) of Part 3 of Division 4 of Title 2 of the Government Code), if the Treasurer sells bonds pursuant to this bond act that include a bond counsel opinion to the effect that the interest on the bonds is excluded from gross income for federal tax purposes under designated conditions, the Treasurer may maintain separate accounts for the bond proceeds invested and the investment earnings on those proceeds, and may use or direct the use of those proceeds or earnings to pay any rebate, penalty, or other payment required under federal law, or take any other action with

respect to the investment and use of those bond proceeds, as may be required or desirable under federal law in order to maintain the tax-exempt status of those bonds and to obtain any other advantage under federal law on behalf of the funds of this state.

SEC. 29. Section 12938.2 is added to the Water Code, to read:

12938.2. Notwithstanding any other provision of this bond act, or of the State General Obligation Bond Law (Chapter 4 (commencing with Section 16720) of Part 3 of Division 4 of Title 2 of the Government Code), if the Treasurer sells bonds pursuant to this bond act that include a bond counsel opinion to the effect that the interest on the bonds is excluded from gross income for federal tax purposes under designated conditions, the Treasurer may maintain separate accounts for the bond proceeds invested and the investment earnings on those proceeds, and may use or direct the use of those proceeds or earnings to pay any rebate, penalty, or other payment required under federal law, or take any other action with respect to the investment and use of those bond proceeds, as may be required or desirable under federal law in order to maintain the tax-exempt status of those bonds and to obtain any other advantage under federal law on behalf of the funds of this state.

SEC. 30. Section 13462.5 is added to the Water Code, to read:

13462.5. Notwithstanding any other provision of this bond act, or of the State General Obligation Bond Law (Chapter 4 (commencing with Section 16720) of Part 3 of Division 4 of Title 2 of the Government Code), if the Treasurer sells bonds pursuant to this bond act that include a bond counsel opinion to the effect that the interest on the bonds is excluded from gross income for federal tax purposes under designated conditions, the Treasurer may maintain separate accounts for the bond proceeds invested and the investment earnings on those proceeds, and may use or direct the use of those proceeds or earnings to pay any rebate, penalty, or other payment required under federal law, or take any other action with respect to the investment and use of those bond proceeds, as may be required or desirable under federal law in order to maintain the tax-exempt status of those bonds and to obtain any other advantage under federal law on behalf of the funds of this state.

SEC. 31. Section 13842.5 is added to the Water Code, to read:

13842.5. Notwithstanding any other provision of this bond act, or of the State General Obligation Bond Law (Chapter 4 (commencing with Section 16720) of Part 3 of Division 4 of Title 2 of the Government Code), if the Treasurer sells bonds pursuant to this bond act that include a bond counsel opinion to the effect that the interest on the bonds is excluded from gross income for federal tax purposes under designated conditions, the Treasurer may maintain separate accounts for the bond proceeds invested and the investment earnings on those proceeds, and may use or direct the use of those proceeds or earnings to pay any rebate, penalty, or other payment required under federal law, or take any other action with respect to the investment and use of those bond proceeds, as may be

required or desirable under federal law in order to maintain the tax-exempt status of those bonds and to obtain any other advantage under federal law on behalf of the funds of this state.

SEC. 32. Section 13872.5 is added to the Water Code, to read:

13872.5. Notwithstanding any other provision of this bond act, or of the State General Obligation Bond Law (Chapter 4 (commencing with Section 16720) of Part 3 of Division 4 of Title 2 of the Government Code), if the Treasurer sells bonds pursuant to this bond act that include a bond counsel opinion to the effect that the interest on the bonds is excluded from gross income for federal tax purposes under designated conditions, the Treasurer may maintain separate accounts for the bond proceeds invested and the investment earnings on those proceeds, and may use or direct the use of those proceeds or earnings to pay any rebate, penalty, or other payment required under federal law, or take any other action with respect to the investment and use of those bond proceeds, as may be required or desirable under federal law in order to maintain the tax-exempt status of those bonds and to obtain any other advantage under federal law on behalf of the funds of this state.

SEC. 33. Section 13898.25 is added to the Water Code, to read:

13898.25. Notwithstanding any other provision of this bond act, or of the State General Obligation Bond Law (Chapter 4 (commencing with Section 16720) of Part 3 of Division 4 of Title 2 of the Government Code), if the Treasurer sells bonds pursuant to this bond act that include a bond counsel opinion to the effect that the interest on the bonds is excluded from gross income for federal tax purposes under designated conditions, the Treasurer may maintain separate accounts for the bond proceeds invested and the investment earnings on those proceeds, and may use or direct the use of those proceeds or earnings to pay any rebate, penalty, or other payment required under federal law, or take any other action with respect to the investment and use of those bond proceeds, as may be required or desirable under federal law in order to maintain the tax-exempt status of those bonds and to obtain any other advantage under federal law on behalf of the funds of this state.

SEC. 34. Section 13966.5 is added to the Water Code, to read:

13966.5. Notwithstanding any other provision of this bond act, or of the State General Obligation Bond Law (Chapter 4 (commencing with Section 16720) of Part 3 of Division 4 of Title 2 of the Government Code), if the Treasurer sells bonds pursuant to this bond act that include a bond counsel opinion to the effect that the interest on the bonds is excluded from gross income for federal tax purposes under designated conditions, the Treasurer may maintain separate accounts for the bond proceeds invested and the investment earnings on those proceeds, and may use or direct the use of those proceeds or earnings to pay any rebate, penalty, or other payment required under federal law, or take any other action with respect to the investment and use of those bond proceeds, as may be required or desirable under federal law in order to maintain the

tax-exempt status of those bonds and to obtain any other advantage under federal law on behalf of the funds of this state.

SEC. 35. Section 13980.5 is added to the Water Code, to read:

13980.5. Notwithstanding any other provision of this bond act, or of the State General Obligation Bond Law (Chapter 4 (commencing with Section 16720) of Part 3 of Division 4 of Title 2 of the Government Code), if the Treasurer sells bonds pursuant to this bond act that include a bond counsel opinion to the effect that the interest on the bonds is excluded from gross income for federal tax purposes under designated conditions, the Treasurer may maintain separate accounts for the bond proceeds invested and the investment earnings on those proceeds, and may use or direct the use of those proceeds or earnings to pay any rebate, penalty, or other payment required under federal law, or take any other action with respect to the investment and use of those bond proceeds, as may be required or desirable under federal law in order to maintain the tax-exempt status of those bonds and to obtain any other advantage under federal law on behalf of the funds of this state.

SEC. 36. Section 13995.5 is added to the Water Code, to read:

13995.5. Notwithstanding any other provision of this bond act, or of the State General Obligation Bond Law (Chapter 4 (commencing with Section 16720) of Part 3 of Division 4 of Title 2 of the Government Code), if the Treasurer sells bonds pursuant to this bond act that include a bond counsel opinion to the effect that the interest on the bonds is excluded from gross income for federal tax purposes under designated conditions, the Treasurer may maintain separate accounts for the bond proceeds invested and the investment earnings on those proceeds, and may use or direct the use of those proceeds or earnings to pay any rebate, penalty, or other payment required under federal law, or take any other action with respect to the investment and use of those bond proceeds, as may be required or desirable under federal law in order to maintain the tax-exempt status of those bonds and to obtain any other advantage under federal law on behalf of the funds of this state.

SEC. 37. Section 13999.19 is added to the Water Code, to read:

13999.19. Notwithstanding Section 13999.17 or any other provision of this bond act, or of the State General Obligation Bond Law (Chapter 4 (commencing with Section 16720) of Part 3 of Division 4 of Title 2 of the Government Code), if the Treasurer sells bonds pursuant to this bond act that include a bond counsel opinion to the effect that the interest on the bonds is excluded from gross income for federal tax purposes under designated conditions, the Treasurer may maintain separate accounts for the bond proceeds invested and the investment earnings on those proceeds, and may use or direct the use of those proceeds or earnings to pay any rebate, penalty, or other payment required under federal law, or take any other action with respect to the investment and use of those bond proceeds, as may be required or desirable under federal law in order to maintain the tax-exempt status of those bonds and to obtain any

other advantage under federal law on behalf of the funds of this state.

SEC. 38. Section 14036.5 is added to the Water Code, to read:

14036.5. Notwithstanding any other provision of this bond act, or of the State General Obligation Bond Law (Chapter 4 (commencing with Section 16720) of Part 3 of Division 4 of Title 2 of the Government Code), if the Treasurer sells bonds pursuant to this bond act that include a bond counsel opinion to the effect that the interest on the bonds is excluded from gross income for federal tax purposes under designated conditions, the Treasurer may maintain separate accounts for the bond proceeds invested and the investment earnings on those proceeds, and may use or direct the use of those proceeds or earnings to pay any rebate, penalty, or other payment required under federal law, or take any other action with respect to the investment and use of those bond proceeds, as may be required or desirable under federal law in order to maintain the tax-exempt status of those bonds and to obtain any other advantage under federal law on behalf of the funds of this state.

SEC. 39. Section 14076 is added to the Water Code, to read:

14076. Notwithstanding Section 14074 or any other provision of this bond act, or of the State General Obligation Bond Law (Chapter 4 (commencing with Section 16720) of Part 3 of Division 4 of Title 2 of the Government Code), if the Treasurer sells bonds pursuant to this bond act that include a bond counsel opinion to the effect that the interest on the bonds is excluded from gross income for federal tax purposes under designated conditions, the Treasurer may maintain separate accounts for the bond proceeds invested and the investment earnings on those proceeds, and may use or direct the use of those proceeds or earnings to pay any rebate, penalty, or other payment required under federal law, or take any other action with respect to the investment and use of those bond proceeds, as may be required or desirable under federal law in order to maintain the tax-exempt status of those bonds and to obtain any other advantage under federal law on behalf of the funds of this state.

CHAPTER 653

An act to amend Section 4127 of the Public Resources Code, and to amend Section 2400 of the Vehicle Code, relating to law enforcement.

[Approved by Governor October 7, 1991 Filed with Secretary of State October 8, 1991]

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

SECTION 1. Section 4127 of the Public Resources Code is amended to read:

4127. The board shall not include within state responsibility areas

any of the following lands:

(a) Lands owned or controlled by the federal government or any agency of the federal government.

(b) Lands within the exterior boundaries of any city, except a city and county with a population of less than 25,000 if, at the time the city and county government is established, the county contains no municipal corporations.

(c) Any other lands within the state which do not come within any of the classes which are described in Section 4126.

SEC. 2. Section 2400 of the Vehicle Code is amended to read:

2400. (a) The commissioner shall administer Chapter 4 (commencing with Section 10850) of Division 4, Article 3 (commencing with Section 17300) of Chapter 1 of Division 9, Division 10 (commencing with Section 20000), Division 11 (commencing with Section 21000) except Chapter 11 (commencing with Section 22950), Division 12 (commencing with Section 24000), Division 13 (commencing with Section 29000), Division 14 (commencing with Section 31600), Division 14.1 (commencing with Section 32000), Division 14.5 (commencing with Section 33000), Division 14.7 (commencing with Section 34000), Division 14.8 (commencing with Section 34500), Division 15 (commencing with Section 35000), Division 16 (commencing with Section 36000) except Chapter 2 (commencing with Section 36100) and Chapter 3 (commencing with Section 36300), and Division 16.5 (commencing with Section 38000) except Chapter 2 (commencing with Section 38010).

(b) The commissioner shall enforce all laws regulating the operation of vehicles and the use of the highways except that, on ways or places to which Section 592 makes reference, the commissioner shall not be required to provide patrol or enforce any provisions of this code other than those provisions applicable to private property.

(c) The commissioner shall not be required to provide patrol for or enforce Division 16.5 (commencing with Section 38000).

(d) The commissioner shall have full responsibility and primary jurisdiction for the administration and enforcement of the provisions and laws, and for the investigation of traffic accidents, on all state highways constructed as freeways, including transit-related facilities located on or along the rights-of-way of those freeways, except facilities of the San Francisco Bay Area Rapid Transit District; provided, however, that city police officers while engaged primarily in general law enforcement duties may incidentally enforce state and local traffic laws and ordinances on state freeways within incorporated areas of the state. In any city having either a population in excess of 2,000,000 or an area of more than 300 square miles, city police officers shall have full responsibility and primary jurisdiction for the administration and enforcement of those laws and ordinances, unless the city council of the city by resolution requests administration and enforcement of those laws by the commissioner.

(e) The commissioner shall have full responsibility and primary jurisdiction for the administration and enforcement of the provisions and laws, and for the investigation of traffic accidents, on all highways within a city and county with a population of less than 25,000, if, at the time the city and county government is established, the county contains no municipal corporations.

(f) The commissioner may enter into any interagency agreement with the State Board of Equalization for the purpose of enforcement of statutes requiring commercial vehicles from foreign jurisdictions to have a diesel fuel tax permit and to make payments to the board as required.

CHAPTER 654

An act to amend Sections 22, 30, 101, 313.1, 477, 1725, 3701, 3706, 3711, 3713, 3714, 3717, 3718, 3730, 3731, 3732, 3733, 3734, 3735, 3736, 3737, 3739, 3740, 3742, 3750, 3750.5, 3751, 3752, 3753, 3753.5, 3754, 3755, 3756, 3760, 3761, 3764, 3765, 3770, 3771, 3772, 3774, 3775, 3775.5, 3777, 4052, 4350.6, 4426, 4429, 4875.6, 4996.20, 6886, 7561.1, and 19170.5 of, to amend the heading of Article 12 (commencing with Section 4425) of Chapter 9 of Division 2 of, to add Sections 156.1 and 5651.1 to, to add Section 9832 to, and to repeal Sections 4439, 9832, and 9832.1 of, the Business and Professions Code, to amend Section 1812.519 of the Civil Code, relating to consumer affairs.

[Approved by Governor October 7, 1991. Filed with Secretary of State October 8, 1991.]

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

SECTION 1. Section 22 of the Business and Professions Code is amended to read:

22. "Board," as used in any provision of this code, refers to the board in which the administration of the provision is vested, and unless otherwise expressly provided, shall include "bureau," "commission," "committee," "department," "division," "examining committee," "program," and "agency."

SEC. 1.5. Section 30 of the Business and Professions Code is amended to read:

30. (a) Notwithstanding any other provision of law, any board, as defined in Section 22, and the State Bar and the Department of Real Estate (hereinafter referred to as licensing board) shall at the time of issuance or renewal of the license require that any licensee provide its federal employer identification number (if the licensee is a partnership) or his or her social security number (for all others).

(b) Any licensee failing to provide the federal identification number or social security number shall be reported by the licensing board to the Franchise Tax Board and, if failing to provide after

notification pursuant to paragraph (1) of subdivision (b) of Section 19276 of the Revenue and Taxation Code, shall be subject to the penalty provided in paragraph (2) of subdivision (b) of Section 19276 of the Revenue and Taxation Code.

(c) A licensing board shall, upon request of the Franchise Tax Board, furnish to the Franchise Tax Board the following information with respect to every licensee:

(1) Name.

(2) Address or addresses of record.

(3) Federal employer identification number (if the entity is a partnership) or social security number (for all others).

(4) Type of license.

(5) Effective date of license or renewal.

(6) Expiration date of license.

(7) Whether license is active or inactive, if known.

(8) Whether license is new or renewal.

(d) For the purposes of this section:

(1) "Licensee" means any entity, other than a corporation, authorized by a license, certificate, registration, or other means to engage in a business or profession regulated by this code or referred to in Section 1000 or 3600.

(2) "License" includes a certificate, registration, or any other authorization needed to engage in a business or profession regulated by this code or referred to in Section 1000 or 3600.

(e) The reports required under this section shall be filed on magnetic media or in other machine-readable form, according to standards furnished by the Franchise Tax Board.

(f) Licensing boards shall begin providing to the Franchise Tax Board the information required by this section as soon as economically feasible but no later than July 1, 1987. The information shall be furnished at a time which the Franchise Tax Board may require.

(g) Notwithstanding Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code, the social security number and federal employer identification number furnished pursuant to this section shall not be deemed to be a public record and shall not be open to the public for inspection.

(h) Any deputy, agent, clerk, officer, or employee of any licensing board described in subdivision (a), or any former officer or employee or other individual who in the course of his or her employment or duty has or has had access to the information required to be furnished under this section, shall not disclose or make known in any manner that information, except as provided in this section to the Franchise Tax Board or as provided in subdivision (j).

(i) It is the intent of the Legislature in enacting this section to utilize the social security account number or federal employer identification number for the purpose of establishing the identification of persons affected by state tax laws and for purposes of compliance with Section 11350.6 of the Welfare and Institutions

Code and, to that end, the information furnished pursuant to this section shall be used exclusively for those purposes.

(j) If the board utilizes a national examination to issue a license, and if a reciprocity agreement or comity exists between the State of California and the state requesting release of the social security number, any deputy, agent, clerk, officer, or employee of any licensing board described in subdivision (a) may release a social security number to an examination or licensing entity, only for the purpose of verification of licensure or examination status.

SEC. 2. Section 101 of the Business and Professions Code is amended to read:

101. The department is comprised of:

(a) The Board of Dental Examiners of California.

(b) The Medical Board of California.

(c) The State Board of Optometry.

(d) The California State Board of Pharmacy.

(e) The Board of Examiners in Veterinary Medicine.

(f) The State Board of Accountancy.

(g) The California State Board of Architectural Examiners.

(h) The State Board of Barber Examiners.

(i) The State Board of Registration for Professional Engineers and Land Surveyors.

(j) The Contractors' State License Board.

(k) The State Board of Cosmetology.

(*l*) The State Board of Funeral Directors and Embalmers.

(m) The Structural Pest Control Board.

(n) The Bureau of Home Furnishings and Thermal Insulation.

(o) The Board of Registered Nursing.

(p) The Board of Behavioral Science Examiners.

(q) The State Athletic Commission.

(r) The Cemetery Board.

(s) The State Board of Guide Dogs for the Blind.

(t) The Bureau of Collection and Investigative Services.

(u) The Certified Shorthand Reporters Board.

(v) The Board of Vocational Nurse and Psychiatric Technician Examiners of the State of California.

(w) The California State Board of Landscape Architects.

(x) The Bureau of Electronic and Appliance Repair.

(y) The Division of Investigation.

(z) The Bureau of Automotive Repair.

(aa) The State Board of Registration for Geologists and Geophysicists.

(ab) The State Board of Examiners of Nursing Home Administrators.

(ac) Any other boards, offices, or officers subject to its jurisdiction by law.

SEC. 3. Section 156.1 is added to the Business and Professions Code, to read:

156.1. (a) Notwithstanding any other provision of law,

individuals or entities contracting with the department or any board within the department for the provision of services relating to the treatment and rehabilitation of licentiates impaired by alcohol or dangerous drugs, shall retain all records and documents pertaining to those services until such time as these records and documents have been reviewed for audit by the department. These records and documents shall be retained for a maximum of three years from the date of the last treatment or service rendered to that licentiate, or until such time as the records pertaining to treatment or services rendered to that licentiate are audited, whichever occurs first, after which time the records and documents may be purged and destroyed by the contract vendor. This provision shall supersede any other provision of law relating to the purging or destruction of records pertaining to those treatment and rehabilitation programs.

(b) Notwithstanding any other provision of law, all records and documents pertaining to services for the treatment and rehabilitation of licentiates impaired by alcohol or dangerous drugs provided by any contract vendor to the department or to any board within the department shall be kept confidential and are not subject to discovery or subpoena.

(c) With respect to all other contracts for services with the department or any board within the department other than those set forth in subdivision (a), the director or chief deputy director may request an examination and audit by the department's internal auditor of all performance under the contract. For this purpose, all documents and records of the contract vendor in connection with such performance shall be retained by such vendor for a period of three years after final payment under the contract. Nothing in this section shall affect the authority of the Auditor General to conduct any examination or audit under the terms of Section 10532 of the Government Code.

SEC. 4. Section 313.1 of the Business and Professions Code is amended to read:

313.1. (a) Notwithstanding any other provision of law to the contrary, no rule or regulation, except those relating to examinations and qualifications for licensure, and no fee change proposed or promulgated by any of the boards, commissions, or committees within the department, shall take effect pending compliance with this section. The director shall be formally notified of and shall be provided a full opportunity to review, in accordance with the requirements of Article 5 (commencing with Section 11346) of Chapter 3.5 of Part 1 of Division 3 of Title 2 of the Government Code, and this section, all of the following:

(1) Notices of proposed action.

(2) Notices of sufficiently related changes to regulations previously noticed to the public.

(3) Final rulemaking records.

(b) The submission of all notices and final rulemaking records to the director and the completion of the director's review, as

authorized by this section, shall be a precondition to the filing of any rule or regulation with the Office of Administrative Law. The Office of Administrative Law shall have no jurisdiction to review a rule or regulation subject to this section until after the completion of the director's review and only then if the director has not disapproved it. The filing of any document with the Office of Administrative Law shall be accompanied by a certification that the board, commission, or committee has complied with the requirements of this section.

(c) Following the receipt of any final rulemaking record subject to subdivision (a), the director shall have the authority for a period of 30 days to disapprove a proposed rule or regulation on the ground that it is injurious to the public health, safety, or welfare.

(d) Final rulemaking records shall be filed with the director within the one-year notice period specified in Section 11346.4 of the Government Code. If necessary for compliance with this section, the one-year notice period may be extended, as specified by this subdivision.

(1) In the event that the one-year notice period lapses during the director's 30-day review period, or within 60 days following the notice of the director's disapproval, it may be extended for a maximum of 90 days.

(2) If the director approves the final rulemaking record or declines to take action on it within 30 days, the board, commission, or committee shall have five days from the receipt of the record from the director within which to file it with the Office of Administrative Law.

(3) If the director disapproves a rule or regulation, it shall have no force or effect unless, within 60 days of the notice of disapproval, (A) the disapproval is overridden by a unanimous vote of the members of the board, commission, or committee, and (B) the board, commission, or committee files the final rulemaking record with the Office of Administrative Law in compliance with this section and the procedures required by Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(e) Nothing in this section shall be construed to prohibit the director from affirmatively approving a proposed rule, regulation, or fee change at any time within the 30-day period after it has been submitted to him or her, in which event it shall become effective upon compliance with this section and the procedures required by Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(f) Nothing in this section shall be construed to prohibit the director from affirmatively approving a proposed rule, regulation, or fee change at any time within the 30-day period after it has been submitted to him or her, in which event it shall become effective upon compliance with this section and the further procedures required by Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 5. Section 477 of the Business and Professions Code is

amended to read:

477. As used in this division:

(a) "Board" includes "bureau," "commission," "committee," "department," "division," "examining committee," "program," and "agency."

(b) "License" includes certificate, registration or other means to engage in a business or profession regulated by this code.

SEC. 6. Section 1725 of the Business and Professions Code is amended to read:

1725. The amount of the fees prescribed by this chapter which relate to the licensing of dental auxiliaries shall be fixed by board resolution and subject to the following limitations:

(a) The application fee for an original license shall not exceed twenty dollars ($20).

(b) The fee for examination for licensure as a registered dental assistant shall not exceed fifty dollars ($50) for the written examination and shall not exceed sixty dollars ($60) for the practical examination.

(c) The fee for examination for licensure as a registered dental assistant in extended functions shall not exceed two hundred fifty dollars ($250).

(d) The fee for examination for licensure as a registered dental hygienist shall not exceed two hundred twenty dollars ($220).

(e) The fee for examination for licensure as a registered dental hygienist in extended functions shall not exceed two hundred fifty dollars ($250).

(f) The biennial renewal fee for a dental auxiliary whose license expires on or after January 1, 1991, shall not exceed sixty dollars ($60). On or after January 1, 1992, the board may set the renewal fee in an amount not to exceed eighty dollars ($80).

(g) The delinquency fee shall not exceed twenty-five dollars ($25) or one-half of the renewal fee, whichever is greater. Any delinquent license may be restored only upon payment of all fees, including the delinquency fee.

(h) The fee for issuance of a duplicate registration, license, or certificate to replace one that is lost or destroyed, or in the event of a name change, shall not exceed twenty-five dollars ($25).

(i) The fee for each curriculum review and site evaluation for educational programs for registered dental assistants which are not accredited by a board-approved agency, the Council for Private Postsecondary and Vocational Education, or the Chancellor's office of the California Community Colleges shall not exceed one thousand four hundred dollars ($1,400).

(j) The fee for each curriculum review and site evaluation for radiation safety courses that are not accredited by a board approved agency, the Council for Private Postsecondary and Vocational Education, or the Chancellor's office of the California Community Colleges shall not exceed three hundred dollars ($300).

(k) No fees or charges other than those listed in subdivisions (a)

through (j) above shall be levied by the board in connection with the licensure of dental auxiliaries, registered dental assistants educational program site evaluations and radiation safety course site evaluations pursuant to this chapter.

(*l*) Fees fixed by the board pursuant to this section shall not be subject to the approval of the Office of Administrative Law.

(m) Fees collected pursuant to this section shall be deposited in the State Dental Auxiliary Fund.

SEC. 7. Section 3701 of the Business and Professions Code is amended to read:

3701. The Legislature finds and declares that the practice of respiratory care in California affects the public health, safety, and welfare and is to be subject to regulation and control in the public interest to protect the public from the unauthorized and unqualified practice of respiratory care and from unprofessional conduct by persons licensed to practice respiratory care. The Legislature also recognizes the practice of respiratory care to be a dynamic and changing art and science, the practice of which is continually evolving to include newer ideas and more sophisticated techniques in patient care.

It is the intent of the Legislature in this chapter to provide clear legal authority for functions and procedures which have common acceptance and usage. It is the intent also to recognize the existence of overlapping functions between physicians and surgeons, registered nurses, physical therapists, respiratory care practitioners, and other licensed health care personnel, and to permit additional sharing of functions within organized health care systems. The organized health care systems include, but are not limited to, health facilities licensed pursuant to Chapter 2 (commencing with Section 1250) of Division 2 of the Health and Safety Code, clinics, home health agencies, physicians' offices, and public or community health services.

SEC. 8. Section 3706 of the Business and Professions Code is amended to read:

3706. A person licensed under this chapter who in good faith renders emergency care at the scene of an emergency which occurs outside both the place and the course of employment shall not be liable for any civil damages as the result of acts or omissions by the person in rendering the emergency care.

This section does not grant immunity from civil damages when the person is grossly negligent.

SEC. 9. Section 3711 of the Business and Professions Code is amended to read:

3711. The members of the examining committee shall be the following: two physician and surgeons, four respiratory care practitioners, each of whom shall have practiced respiratory care and three public members who shall not be licensed by the examining committee.

SEC. 10. Section 3713 of the Business and Professions Code is

amended to read:

3713. The public members shall be appointed from persons having the following qualifications:

(a) Be a citizen of the United States of America.

(b) Be a resident of the State of California.

(c) Shall not be an officer or faculty member of any college, school, or institution engaged in respiratory therapy education.

(d) Shall not be licensed by the board or of any board under this division.

(e) Shall have no pecuniary interests in the provision of health care.

The respiratory care practitioner members shall be appointed from persons having the following qualifications:

(a) Be a citizen of the United States of America.

(b) Be a resident of the State of California.

(c) One respiratory care practitioner member shall be a technical director of a respiratory care department or respiratory care corporation.

(d) One respiratory care practitioner shall be an officer or faculty member of any college, school, or institution engaged in respiratory therapy education.

(e) Two respiratory care practitioners who are involved in direct patient care.

(f) Have at least five years' experience in respiratory care or respiratory therapy education, and have been actively engaged therein for at least three years immediately preceding appointment.

(g) Subsequent to the first appointments to the committee, shall be licensed as a respiratory care practitioner in the State of California.

The physician and surgeon member shall be appointed from persons having the following qualifications:

(a) Be a citizen of the United States of America.

(b) Be a resident of the State of California.

(c) Be a licensed practicing physician and surgeon in the State of California.

(d) Be knowledgeable in respiratory care.

SEC. 11. Section 3714 of the Business and Professions Code is amended to read:

3714. It shall be the duty of the examining committee to examine applicants for licensure as provided by this chapter, at such places and at such times as shall be designated by the examining committee in its discretion.

SEC. 12. Section 3717 of the Business and Professions Code is amended to read:

3717. Each member of the examining committee, or any licensed respiratory care practitioner appointed by the examining committee, may inspect, or require reports from, a general or specialized hospital or any other facility or corporation providing respiratory care, treatment, or services and the respiratory care staff

thereof, with respect to the respiratory care, treatment, services, or facilities provided therein, and may inspect respiratory care patient records with respect to such care, treatment, services, or facilities. The authority to make inspections and to require reports as provided by this section shall not be delegated by a member of the examining committee to any person other than a respiratory care practitioner and shall be subject to the restrictions against disclosure described in Section 2225.

SEC. 13. Section 3718 of the Business and Professions Code is amended to read:

3718. The examining committee shall issue, suspend, and revoke licenses to practice respiratory care as provided in this chapter.

SEC. 14. Section 3730 of the Business and Professions Code is amended to read:

3730. All licenses for the practice of respiratory care in this state shall be issued by the examining committee, and all applications for those licenses shall be filed with the examining committee. Except as otherwise required by the director pursuant to Section 164, the license issued by the examining committee shall describe the license holder as a "respiratory care practitioner licensed by the Respiratory Care Examining Committee."

Each application shall be accompanied by the application fee prescribed in Section 3775, shall be signed by the applicant, and shall contain a statement under oath of the facts entitling the applicant to receive a certificate without examination or to take an examination.

The application shall contain other information as the examining committee deems necessary to determine the qualifications of the applicant.

SEC. 15. Section 3731 of the Business and Professions Code is amended to read:

3731. A person holding a license as a respiratory care practitioner issued by the examining committee may use the title "respiratory care practitioner" or the letters "RCP" or any other words, letters, or figures which indicate that the person using same is a licensed respiratory care practitioner. The license as a respiratory care practitioner shall not authorize the use of the prefix "Dr.", or the word "doctor", or any suffix or affix indicating or implying that the licensed person is a doctor or a physician and surgeon.

Notwithstanding the provisions of this section, a practitioner licensed under this chapter may use an initial or other suffix indicating possession of a specific academic degree earned at, and issued by an institution accredited by any accrediting agency recognized by the National Commission on Accrediting which the examining committee determines is equivalent, except that the initials "M.D." shall not be used unless the licensed practitioner is licensed as a physician and surgeon in this state.

Notwithstanding the provisions of this section, a practitioner licensed under this chapter may use an initial or initials indicating possession of a specific credential as approved by the examining

committee.

SEC. 16. Section 3732 of the Business and Professions Code is amended to read:

3732. The examining committee shall investigate each and every applicant for a license, before a license is issued, in order to determine whether or not the applicant has in fact the qualifications required by this chapter.

SEC. 17. Section 3733 of the Business and Professions Code is amended to read:

3733. (a) Every applicant for a license under this chapter shall, at the time of application, be a person over 18 years of age, have successfully completed courses of training equivalent to the minimum standard established in this chapter for approval by the examining committee, and not have committed acts or crimes constituting grounds for denial of licensure under Section 480.

(b) The examining committee may order the denial of an application, or the issuance of a license with terms and conditions, for any of the causes specified in this chapter for suspension or revocation of a license, including, but not limited to, those causes specified in Sections 3750 and 3750.5.

SEC. 18. Section 3734 of the Business and Professions Code is amended to read:

3734. (a) An applicant whose application is based on a diploma issued to the applicant by a foreign respiratory therapy school or a certificate or license issued by another state, district, or territory of the United States, shall furnish documentary evidence, satisfactory to the examining committee, that he or she has completed a respiratory therapy school or a course of professional instruction equivalent to that required in Section 3740, for a respiratory care practitioner applicant.

(b) Unless grounds exist to deny the license as a respiratory care practitioner, an applicant who has filed a respiratory care practitioner application under this section with the committee may, between the date of receipt of notice that his or her application is on file and the date of receipt of his or her license, perform as a respiratory care practitioner under the direct and immediate supervision of a respiratory care practitioner licensed in this state.

During the application period, the applicant shall be identified only as a "respiratory care practitioner applicant."

If the applicant under this section does not qualify and receive a license as provided in this section, and does not qualify under Section 3737, all privileges under this section shall automatically cease on the date specified by the examining committee.

(c) Before a license may be issued, the applicant shall meet the requirements of subdivision (a), and shall pass the written examination as provided in this chapter within one year of application.

(d) If an applicant shall fail to take the next succeeding examination without due cause or fails to pass the examination and

receive a license, all privileges under this section shall automatically cease on the date specified by the examining committee.

(e) Nothing contained in this section shall prohibit the examining committee from disapproving any foreign respiratory therapy school, nor from denying the applicant if, in the opinion of the examining committee, the instruction received by the applicant or the courses were not equivalent to that required in this chapter for a respiratory care practitioner applicant.

SEC. 19. Section 3735 of the Business and Professions Code is amended to read:

3735. Except as otherwise provided in this chapter, no person shall receive a license under this chapter without first successfully passing an examination given under the direction of the examining committee. The examination shall be in writing and shall be conducted by such persons and in such manner and under such regulations as shall be prescribed by the examining committee.

SEC. 20. Section 3736 of the Business and Professions Code is amended to read:

3736. Examinations for a license as a respiratory care practitioner may be conducted by the examining committee under a uniform examination system, and for that purpose the examining committee may make such arrangements with organizations furnishing examination material as may in its discretion be desirable.

SEC. 21. Section 3737 of the Business and Professions Code is amended to read:

3737. Every applicant who is otherwise qualified as provided in this chapter and who receives a passing grade established by the examining committee on the examination shall be granted a license.

SEC. 22. Section 3739 of the Business and Professions Code is amended to read:

3739. (a) Unless grounds exist to deny the license as a respiratory care practitioner, every graduate of an approved respiratory care program who has filed an initial respiratory care practitioner application with the committee may, between the date of receipt of notice that his or her initial application is on file and the date of receipt of his or her license, perform as a respiratory care practitioner under the direct supervision of a respiratory care practitioner licensed in this state. During this period such an applicant shall identify himself or herself only as a "respiratory care practitioner applicant."

(b) If an applicant fails to take the next available examination without good cause, or fails to pass the examination and receive a license, all privileges under this section shall automatically cease on the date specified by the examining committee.

SEC. 23. Section 3740 of the Business and Professions Code is amended to read:

3740. (a) Except as otherwise provided in this chapter, all applicants for licensure under this chapter shall have a high school diploma or equivalent education, and shall be a graduate of a training

program approved by the examining committee.

(b) All schools, whether situated in this state or not, furnishing courses of study meeting the minimum standard required by this chapter and the regulations of the examining committee adopted pursuant to this chapter, shall be approved by the examining committee and shall be entitled to compel that approval, if approval is denied, by action in any superior court of the State of California. The procedure and power of the court in such an action shall be the same as provided in Section 2174.

(c) Education programs for respiratory care that are recognized by the Joint Review Committee for Respiratory Therapy Education and approved by the Committee on Allied Health Education and Accreditation of the American Medical Association may be considered approved programs by the committee unless the committee determines otherwise.

(d) A school shall give the director of a respiratory care program adequate release time to perform his or her administrative duties consistent with the established policies of the educational institution.

SEC. 24. Section 3742 of the Business and Professions Code is amended to read:

3742. During the period of any clinical training, a student respiratory care practitioner shall be under the direct supervision of a person holding a valid and current license issued under this chapter. "Under the direct supervision" means assigned to a respiratory care practitioner who is on duty and immediately available in the assigned patient care area.

SEC. 25. Section 3750 of the Business and Professions Code is amended to read:

3750. The examining committee may order the suspension for a period not exceeding 12 months, the revocation of, or the imposition of probationary conditions upon, a license issued under this chapter, for any of the following causes:

(a) Advertising in violation of Section 651 or Section 17500.

(b) Fraud in the procurement of any license under this chapter.

(c) Knowingly employing unlicensed persons who present themselves as licensed respiratory care practitioners.

(d) Conviction of a crime which substantially relates to the qualifications, functions, or duties of a respiratory care practitioner. The record of conviction or a certified copy thereof shall be conclusive evidence of the conviction.

(e) Impersonating or acting as a proxy for an applicant in any examination given under this chapter.

(f) Gross negligence in his or her practice as a respiratory care practitioner.

(g) Conviction of a violation of any of the provisions of this chapter or of the State Medical Practice Act, or violating, or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate any provision or term of this chapter or of the Medical Practice Act (Chapter 5 (commencing

with Section 2000)).

(h) The aiding or abetting of any person to violate the provisions of this chapter or any regulations duly adopted under this chapter.

(i) The aiding or abetting of any person to engage in the unlawful practice of respiratory care.

(j) The commission of any fraudulent, dishonest, or corrupt act which is substantially related to the qualifications, functions, or duties of a respiratory care practitioner.

SEC. 26. Section 3750.5 of the Business and Professions Code is amended to read:

3750.5. In addition to any other grounds specified in this chapter, the examining committee may deny, suspend, or revoke the license of any applicant or license holder who has done any of the following:

(a) Obtained or possessed in violation of law, or except as directed by a licensed physician and surgeon, dentist, or podiatrist administered to himself or herself, or furnished or administered to another, any controlled substances as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug as defined in Article 7 (commencing with Section 4210) of Chapter 9 of this code.

(b) Used any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug as defined in Article 7 (commencing with Section 4210) of Chapter 9 of this code, or alcoholic beverages, to an extent or in a manner dangerous or injurious to himself or herself, or other person, or the public or to the extent that the use impaired his or her ability to conduct with safety to the public the practice authorized by his or her license.

(c) Been convicted of a criminal offense involving the consumption or self-administration of any of the substances described in subdivisions (a) and (b), or the possession of, or falsification of a record pertaining to, the substances described in subdivision (a), in which event the record of the conviction is conclusive evidence thereof.

(d) Been committed or confined by a court of competent jurisdiction for intemperate use of or addiction to the use of any of the substances described in subdivisions (a) and (b), in which event the court order of commitment or confinement is prima facie evidence of that commitment or confinement.

(e) Falsified, or made grossly incorrect, grossly inconsistent, or unintelligible entries in any hospital, patient, or other record pertaining to the substances described in subdivision (a).

SEC. 27. Section 3751 of the Business and Professions Code is amended to read:

3751. One year from the date of revocation of a license or approval under this chapter, application may be made to the examining committee for reinstatement, restoration, or modification of probation. The examining committee shall have discretion to accept or reject an application for reinstatement or modification of

probation and may require an examination for such reinstatement, restoration, or modification of probation when it is deemed appropriate on a license or approval under this chapter.

SEC. 28. Section 3752 of the Business and Professions Code is amended to read:

3752. A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge of any offense which substantially relates to the qualifications, functions, or duties of a respiratory care practitioner is deemed to be a conviction within the meaning of this article. The committee shall order the license suspended or revoked, or may decline to issue a license, when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code allowing such person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or indictment.

SEC. 29. Section 3753 of the Business and Professions Code is amended to read:

3753. The procedure in all matters and proceedings relating to the denial, suspension, or revocation of licenses under this chapter shall be governed by the provisions of the Administrative Procedure Act (Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code).

SEC. 29.5. Section 3753.5 of the Business and Professions Code is amended to read:

3753.5. (a) In any order issued in resolution of a disciplinary proceeding before the examining committee, the committee may request the administrative law judge to direct any practitioner found guilty of a charge involving a significant violation of Section 3750 or 3750.5, to pay to the committee a sum not to exceed the reasonable costs of the investigation and prosecution of the case.

(b) The costs to be assessed shall be fixed by the administrative law judge and shall not be increased by the examining committee. If the examining committee does not adopt a proposed decision and remands the case to an administrative law judge, the administrative law judge shall not increase any assessed costs.

(c) Where an order for recovery of costs is made and timely payment is not made as directed in the examining committee's decision the committee may enforce the order for repayment in any appropriate court. This right of enforcement shall be in addition to any other rights the committee may have as to any practitioner directed to pay costs.

(d) In any action for recovery of costs, proof of the committee's decision shall be conclusive proof of the validity of the order of payment and the terms for payment.

(e) (1) Except as provided in paragraph (2), the committee shall not renew or reinstate the license of any licensee who has failed to

pay all of the costs ordered under this section.

(2) Notwithstanding paragraph (1), the committee may, in its discretion, conditionally renew or reinstate for a maximum of one year the license of any licensee who demonstrates financial hardship and who enters into a formal agreement with the committee to reimburse the committee within that one-year period for those unpaid costs.

SEC. 30. Section 3754 of the Business and Professions Code is amended to read:

3754. The committee may deny an application for, or issue with terms and conditions, or suspend or revoke, or impose probationary conditions upon, a license in any decision made after a hearing, as provided in Section 3753.

SEC. 31. Section 3755 of the Business and Professions Code is amended to read:

3755. The committee may take action against any respiratory care practitioner who is charged with unprofessional conduct in administering, or attempting to administer, direct or indirect respiratory care. Unprofessional conduct includes, but is not limited to, repeated acts of clearly administering directly or indirectly inappropriate or unsafe respiratory care procedures, protocols, therapeutic regimens, or diagnostic testing or monitoring techniques, and violation of any provision of Section 3750. The committee may determine unprofessional conduct involving any and all aspects of respiratory care performed by anyone licensed as a respiratory care practitioner. Any person who engages in repeated acts of unprofessional conduct shall be guilty of a misdemeanor and shall be punished by a fine of not less than two hundred dollars ($200) nor more than six hundred dollars ($600) or by imprisonment for a term not less than 60 days nor more than 180 days, or both the fine and imprisonment.

This section shall be operative until January 1, 1993, and on that date is repealed.

SEC. 32. Section 3756 of the Business and Professions Code is amended to read:

3756. (a) A respiratory care practitioner who provides respiratory care may be ordered to undergo a professional competency examination approved by the committee if, after investigation and review by one or more respiratory care practitioner consultants of the committee, there is reasonable cause to believe that the person providing respiratory care is unable or unwilling to practice respiratory care with reasonable skill and patient safety. Reasonable cause shall be determined by the committee and may include, but shall not be limited to, the following:

(1) A single incidence of gross negligence.

(2) A pattern of inappropriate direct or indirect administration of respiratory care protocols, procedures, therapeutic regimens, or diagnostic testing of monitoring techniques.

(3) An act of incompetence or negligence causing death or serious bodily injury.

(4) A pattern of substandard care.

(5) Violation of any provision of Section 3750 or 3755.

(b) The matter shall be presented by the committee's executive officer or designee by way of a written petition detailing the reasonable cause. The petition shall contain all conclusions and facts upon which the presumption of reasonable cause is based. A copy of the petition shall be served on the person who shall have 45 days after receipt of the copy of the petition to file written opposition to the petition. Service of the petition and any order shall be in accordance with the methods of service authorized by subdivision (c) of Section 11505 of the Government Code.

(c) The committee shall review the petition and any written opposition from the person who has charges brought against him or her, or the committee may hold a hearing in accordance with the provisions of the Administrative Procedure Act to determine if reasonable cause exists, as specified in subdivision (a). The person who has charges brought against him or her shall have the right to be represented at that hearing by a person of his or her choice. If the committee is satisfied that reasonable cause exists that is considered by the committee as unprofessional conduct, the committee shall issue an order compelling the person who has charges brought against him or her to undergo an examination of professional competency, as measured by community standards. For purposes of this section, "community standards" means the statewide standards of the community of licensees. Failure to comply with the order duly served the person charged shall constitute unprofessional conduct for purposes of disciplinary proceedings and failure to pass the examination shall result in denial, suspension, or revocation of the license, or registration which shall be determined by the committee in its discretion.

(d) If the committee proceeds pursuant to the provisions of Sections 3755 and 3756 and the person charged passes the professional competency examination administered, the committee shall be precluded from filing an accusation of incompetency based solely on the circumstances giving rise to the reasonable cause for the examination.

(e) If the committee determines there is insufficient cause to file an accusation based on the examination results, then all agency records of the proceedings, including the petition and order for the examination, investigative reports, if any, reports of staff or the committee's consultants, and the reports of the examiners, shall be kept confidential and shall not be subject to discovery or subpoena.

(f) If no further proceedings are conducted to determine the person's fitness to practice during a period of five years from the date of the petition under Section 3756, then the agency shall purge and destroy all records pertaining to the proceeding.

This section shall be operative until January 1, 1993, and on that

date is repealed.

SEC. 33. Section 3760 of the Business and Professions Code is amended to read:

3760. (a) Except as otherwise provided in this chapter, no person shall engage in the practice of respiratory care, respiratory therapy, or inhalation therapy.

(b) No person whose respiratory care practitioner license has been revoked or suspended shall engage in the practice of respiratory care during the period of suspension or revocation, even though the person may continue to hold a certificate or registration issued by a private certifying entity.

(c) Except as otherwise provided in this chapter, no person may represent himself or herself to be a respiratory care practitioner, a respiratory therapist or an inhalation therapist, or use the abbreviation or letters "R.C.P.," "R.P.," "R.T.," or "I.T." without a current and valid license issued under this chapter.

SEC. 34. Section 3761 of the Business and Professions Code is amended to read:

3761. (a) No person may represent himself or herself to be a respiratory care practitioner without a license granted under this chapter, except as otherwise provided in this chapter.

(b) No person or corporation shall knowingly employ a person who holds himself or herself out to be a respiratory care practitioner without a license granted under this chapter, except as otherwise provided in this chapter.

SEC. 35. Section 3764 of the Business and Professions Code is amended to read:

3764. Whenever any person has engaged or is about to engage in any acts or practices which constitute or will constitute an offense against this chapter, the superior court of any county, on application of the Division of Allied Health Professions, or the examining committee, or 10 or more persons holding respiratory care practitioner licenses issued under this chapter, may issue an injunction or other appropriate order restraining such conduct. Proceedings under this section shall be governed by Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure, except that no undertaking shall be required in any action commenced by the board or the examining committee.

SEC. 36. Section 3765 of the Business and Professions Code is amended to read:

3765. This act does not prohibit:

(a) The performance of respiratory care which is an integral part of the program of study by students enrolled in approved respiratory therapy training programs.

(b) Self-care by the patient or the gratuitous care by a friend or member of the family who does not represent or hold himself or herself out to be a respiratory care practitioner licensed under the provisions of this chapter.

(c) The respiratory care practitioner from performing advances

in the art and techniques of respiratory care learned through formal or specialized training.

(d) Nothing in this chapter shall be interpreted to preclude the performance of respiratory care by paramedical personnel who have been formally trained in these modalities and are duly licensed under the provisions of an act pertaining to their speciality.

(e) Respiratory care services in case of an emergency. "Emergency," as used in this subdivision, includes an epidemic or public disaster.

(f) Nothing in this act shall prohibit persons from engaging in cardiopulmonary research.

SEC. 37. Section 3770 of the Business and Professions Code is amended to read:

3770. The department shall keep a record of its proceedings under this chapter, and a register of all persons licensed under it. The register shall show the name of every living licensed respiratory care practitioner, his or her last known place of residence, and the date and number of his or her certificate as a respiratory care practitioner. The department shall, once every two years, compile a list of respiratory care practitioners authorized to practice respiratory care in the state. Any interested person is entitled to obtain a copy of that list upon application to the department and payment of such amount as may be fixed by the department, which amount shall not exceed the cost of the list so furnished.

SEC. 38. Section 3771 of the Business and Professions Code is amended to read:

3771. Within 10 days after the beginning of each calendar month, the examining committee shall report to the Controller the amount and source of all collections made from persons licensed or seeking to be licensed under this chapter, and all fines and forfeitures to which the examining committee is entitled, and at the same time, pay all such sums into the State Treasury, where they shall be credited to the Respiratory Care Fund, which is hereby created and continuously appropriated for the purposes of this chapter.

SEC. 39. Section 3772 of the Business and Professions Code is amended to read:

3772. (a) There is established in the State Treasury the Respiratory Care Fund. All collections from persons licensed or seeking to be licensed under this chapter shall be paid by the board into the fund after the report to the Controller at the beginning of each month of the amount and source of the collections.

SEC. 40. Section 3774 of the Business and Professions Code is amended to read:

3774. On or before the birthday of a licensed practitioner in every other year, following the initial licensure, the examining committee shall mail to each practitioner licensed under this chapter, at the latest address furnished by the licensed practitioner to the executive officer of the examining committee, a notice stating the amount of the renewal fee and the date on which it is due, and that failure to

pay it on or before the due date and submission of evidence of compliance with Section 3719 will result in expiration of the license.

Each license not renewed in accordance with this section shall expire but may within a period of three years thereafter be reinstated upon payment of the biennial renewal fee and penalty fee required by this chapter and upon submission of proof of the applicant's qualifications as may be required by the committee, except that during the three-year period no examination shall be required as a condition for the reinstatement of any expired license which has lapsed solely by reason of nonpayment of the renewal fee.

SEC. 41. Section 3775 of the Business and Professions Code is amended to read:

3775. The amount of fees provided in connection with licenses or approvals for the practice of respiratory care is as follows:

(a) The application fee shall be fixed by the examining committee at not more than one hundred fifty dollars ($150). The application fee for the applicant under Section 3734 shall be fixed by the examining committee at not more than two hundred dollars ($200).

(b) The reexamination fee shall be fixed by the examining committee at not more than one hundred dollars ($100).

(c) The initial license fee for a respiratory care practitioner is an amount equal to the renewal fee in effect on the last regular renewal date before the date on which the license is issued, except that if the license will expire less than one year after its issuance, then the initial license fee is an amount equal to 50 percent of the renewal fee in effect on the last regular renewal date before the date on which the license is issued. The examining committee may by regulation provide for the waiver or refund of the initial license fee where the license is issued less than 45 days before the date on which it will expire.

(d) The renewal fee shall be fixed by the examining committee at not more than one hundred fifty dollars ($150).

(e) The delinquency fee shall be 50 percent of the renewal fee in effect, but not more than fifty dollars ($50).

(f) The duplicate license fee is ten dollars ($10).

(g) The endorsement fee is five dollars ($5).

(h) The fee for approval of providers of continued education shall be fixed by the examining committee at not more than one hundred dollars ($100).

(i) The fee for approval of education training programs shall be fixed by the examining committee at not more than one hundred dollars ($100). The examining committee may establish a renewal fee not to exceed one hundred dollars ($100) for education training programs and fix the term of the renewal period at not less than two years.

(j) The fee for examination shall be fixed by the examining committee at not more than one hundred dollars ($100).

(k) The biennial renewal fee for continuing education providers shall be fixed by the examining committee at not more than one

hundred dollars ($100).

SEC. 42. Section 3775.5 of the Business and Professions Code is amended to read:

3775.5. The application and renewal fee for an inactive license shall be fixed by the examining committee in an amount not to exceed one hundred fifty dollars ($150).

SEC. 43. Section 3777 of the Business and Professions Code is amended to read:

3777. Where an applicant is issued a license to practice respiratory care, and it is later discovered that all required fees have not been paid, the certificate shall not be renewed or reinstated unless all past and current required fees have been paid.

SEC. 44. Section 4052 of the Business and Professions Code is amended to read:

4052. (a) Except as provided in Section 4240, this chapter does not apply to the retail sale of drugs not subject to Section 4211 which are packaged or bottled in the manufacturer's or distributor's container and labeled in accordance with applicable federal and state drug labeling requirements.

(b) This chapter does not apply to dangerous devices as defined in subdivision (b) of Section 4211, hypodermic needles and syringes, sterilized sutures, parenteral solutions of 50 cubic centimeters or over, sterile water U.S.P., sterile normal saline solution, medicinal gases, inhalation anesthetics, laboratory chemicals, ethyl chloride, flouromethane, stains and dyes, diagnostic agents and contrast medium for X-ray examination, and medicated dressings, where such sale or furnishing is made to any of the following:

(1) A physician, dentist, podiatrist, veterinarian, pharmacist, medical technician, medical technologist, or chiropractor holding a currently valid and unrevoked license and acting within the scope of his or her license.

(2) A clinic, hospital, institution, or establishment holding a currently valid and unrevoked license or permit under Division 2 (commencing with Section 1200) of the Health and Safety Code, or Chapter 2 (commencing with Section 3300) of Division 3, or Part 2 (commencing with Section 6250) of Division 6, of the Welfare and Institutions Code.

(c) The Board of Pharmacy may, by regulation, add to or delete dangerous drugs or devices from the exemptions provided in subdivision (b), for good cause shown.

(d) This chapter does not apply to the storage of devices, as defined in Section 4031.5, in secure central or ward supply areas of a clinic, hospital, institution, or establishment holding a currently valid and unrevoked license or permit under Division 2 (commencing with Section 1200) of the Health and Safety Code, or pursuant to Chapter 2 (commencing with Section 3300) of Division 3 of, or Part 2 (commencing with Section 6250) of Division 6 of, the Welfare and Institutions Code.

(e) This chapter does not apply to the retail sale of vitamins or

mineral products or combinations thereof or to foods, supplements, or nutrients used to fortify the diet of man or other animal or poultry and labeled as such which are not subject to Section 4211 and which are packaged or bottled in the manufacturer's or distributor's container and labeled in accordance with applicable federal and state labeling requirements.

SEC. 45. Section 4350.6, as added to the Business and Professions Code by Section 5 of Chapter 1424 of the Statutes of 1988, is amended to read:

4350.6. The board may deny, revoke, or suspend a nonresident pharmacy registration for failure to comply with any requirement of Section 4050.1 or 4383 or for any failure to comply with Section 11164 of the Health and Safety Code.

(b) The board may deny, revoke, or suspend a nonresident pharmacy registration for conduct which causes serious bodily or serious psychological injury to a resident of this state if the board has referred the matter to the regulatory or licensing agency in the state in which the pharmacy is located and the regulatory or licensing agency fails to initiate an investigation within 45 days of the referral.

(c) This section shall become operative on January 1, 1992.

SEC. 45.1. The heading of Article 12 (commencing with Section 4425) of Chapter 9 of Division 2 of the Business and Professions Code is amended to read:

Article 12. Pharmacists Recovery Program

SEC. 45.2. Section 4426 of the Business and Professions Code is amended to read:

4426. As used in this article:

(a) "Board" means the California State Board of Pharmacy.

(b) "Diversion program" means a rehabilitation program designed and administered by a contracting Employee Assistance Program, available to the board in conjunction with, or as an alternative to, other traditional sanctions which the board may impose upon pharmacists pursuant to disciplinary actions within its jurisdiction.

(c) "Employee Assistance Program" means an agency or organization which provides confidential assessments and referral services for persons experiencing problems related to alcohol, drug abuse, or mental illness.

(d) "Pharmacists Recovery Program" or "program" means the rehabilitation program created by this article for pharmacists whose competency may be threatened or diminished due to abuse of alcohol or other drugs.

(e) "Volunteer intervenor" means a licensed pharmacist recruited through a pharmacists' professional association who is available and trained to assist pharmacists seeking the benefits of the Pharmacists Recovery Program.

SEC. 45.3. Section 4429 of the Business and Professions Code is

amended to read:

4429. The board shall contract with one or more employee assistance programs to administer the Pharmacists Recovery Program statewide. The contractor shall be selected through a competitive bid process, and the contract may be renewed annually.

SEC. 46. Section 4439 of the Business and Professions Code is repealed.

SEC. 47. Section 4875.6 of the Business and Professions Code is amended to read:

4875.6. (a) If a veterinarian or an unlicensed person desires to administratively contest a civil citation or the proposed assessment of a civil penalty therefor, he or she shall, within 10 business days after receipt of the citation, notify the executive officer in writing of his or her request for an informal conference with the executive officer or his or her designee. The executive officer or his or her designee shall hold, within 60 days from the receipt of the request, an informal conference. At the conclusion of the informal conference, the executive officer may affirm, modify, or dismiss the citation or proposed assessment of a civil penalty, and he or she shall state with particularity in writing his or her reasons for the action, and shall immediately transmit a copy thereof to the board, the veterinarian or unlicensed person, and the person who submitted the verified complaint. If the veterinarian or unlicensed person desires to administratively contest under subdivision (c) a decision made after the informal conference, he or she shall inform the executive officer in writing within 30 calendar days after he or she receives the decision resulting from the informal conference.

If the veterinarian or unlicensed person fails to notify the executive officer in writing that he or she intends to contest the citation or the proposed assessment of a civil penalty therefor or the decision made after an informal conference within the time specified in this subdivision, the citation or the proposed assessment of a civil penalty or the decision made after an informal conference shall be deemed a final order of the board and shall not be subject to further administrative review.

Notwithstanding any other provision of law, where a fine is paid to satisfy an assessment based on the finding of a violation, payment of the fine shall be represented as satisfactory resolution of the matter for purposes of public disclosure.

(b) A veterinarian or an unlicensed person may, in lieu of contesting a citation pursuant to this section, transmit to the board the amount assessed in the citation as a civil penalty, within 10 business days after receipt of the citation. An unlicensed person may notify the board and file a petition for a writ of administrative mandamus under Section 1094.5 of the Code of Civil Procedure within 30 calendar days after receipt of the citation, without engaging in an informal conference or administrative hearing. If a petition is not filed pursuant to this section, payment of any fine shall not constitute an admission of the violation charged.

(c) If a veterinarian or an unlicensed person has notified the executive officer that he or she intends to administratively contest the decision made after the informal conference, the executive officer shall forward the matter to the Attorney General's office who shall prepare a notice of appeal of the citation and civil penalty. After the hearing, the board and administrative law judge shall issue a decision, based on findings of fact, affirming, modifying, or vacating the citation, or directing other appropriate relief which shall include, but need not be limited to, a notice that the failure of a veterinarian or unlicensed person to comply with any provision of the board's decision constitutes grounds for suspension, or denial of licensure, or both. The administrative proceedings under this section shall be conducted in accordance with the Administrative Procedure Act (Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code), and the board shall have all the powers granted therein.

(d) After the exhaustion of the review procedures provided for in this section or if the time for all appeals has passed, the board may bring an action in the appropriate court in the county in which the offense occurred to recover the civil penalty and obtain an order compelling the cited person to comply with the order of abatement. In that action, the complaint shall include a certified copy of the final order of the board, together with the factual findings and determinations of the board and administrative law judge. The findings shall be prima facie evidence of the facts stated therein, and in the absence of contrary evidence may serve as the basis for the issuance of the judgment and order.

(e) Failure of a licensee to pay a civil penalty within 30 days of the date of receipt of the assessment, unless the citation is being appealed, may result in disciplinary action being taken by the board. When a citation is not contested and a civil penalty is not paid, the full amount of the assessed civil penalty shall be added to the fee for renewal of the license. A license shall not be renewed without payment of the renewal fee and civil penalty.

(f) Any civil penalties received under this chapter shall be deposited in the Board of Examiners in Veterinary Medicine Contingent Fund.

SEC. 47.5. Section 4996.20 of the Business and Professions Code is amended to read:

4996.20. The experience required by subdivision (c) of Section 4996.2 shall meet the following criteria:

(a) An applicant shall have at least 3,200 hours of post-master's experience, supervised by a licensed clinical social worker, in providing clinical social work services consisting of psychosocial diagnosis; assessment; treatment, including psychotherapy and counseling; client-centered advocacy; consultation; and evaluation as permitted by Section 4996.9. For persons applying for licensure on or after January 1, 1992, this experience shall have been gained in not less than two nor more than six years and shall have been gained

within the six years immediately preceding the date on which the application for licensure was filed. The board may credit experience gained more than six years prior to the date on which an application was filed upon a showing of good cause or where the applicant is licensed and currently practicing in another state.

(b) Notwithstanding the requirements of subdivision (a) that 3,200 hours of experience shall be gained under the supervision of a licensed clinical social worker, up to 1,000 hours of the required experience may be gained under the supervision of a licensed mental health professional acceptable to the board.

For purposes of this section, "supervision" means responsibility for and control of the quality of social work services being provided. Consultation shall not be considered to be supervision. Supervision shall include at least one hour of direct supervision for each week of experience claimed. Not less than one-half of the hours of required supervision shall be individual supervision. The remaining hours may be group supervision. "Individual supervision" means one supervisor meets with one supervisee at a time. "Group supervision" means a supervisor meets with a group of no more than eight supervisees at a time.

(c) For purposes of this section, a "private practice setting" is any setting other than a governmental entity, a school, college or university, a nonprofit and charitable corporation or a licensed health facility. Employment in a private practice setting shall not commence until the applicant has been registered as an associate clinical social worker. A registrant employed in a private practice setting shall not:

(1) Pay his or her employer for supervision, and shall receive fair remuneration from his or her employer.

(2) Receive any remuneration from patients or clients and shall only be paid by his or her employer.

(3) Perform services at any place except where the registrant's employer regularly conducts business.

(4) Have any proprietary interest in the employer's business.

(d) A person employed in a setting other than a private practice setting may obtain supervision from a person not employed by the registrant's employer if that person has signed a written contract with the employer to take supervisory responsibility for the registrant's social work services.

SEC. 48. Section 5651.1 is added to the Business and Professions Code, to read:

5651.1. (a) Notwithstanding Section 111, the board may adopt guidelines for the delegation of its authority to grade the examinations of applicants for licensure to any vendor under contract to the board for provision of a landscape architect's license examination. The guidelines shall be within the board's legal authority to establish the standards for licensure in this state, and shall include, but not be limited to:

(1) Goals for the appropriate content, development, grading, and

administration of an examination, against which the vendor's rules and procedures can be judged.

(2) Procedures through which the board can reasonably assure itself that the vendor adequately meets the goals established by the board.

(b) The board shall not delegate its authority to grade the examination of candidates for licensure in this state to any vendor or any party not in compliance with Section 111 or with the guidelines established in subdivision (a).

SEC. 48.1. Section 6886 of the Business and Professions Code is amended to read:

6886. Except as in this chapter otherwise provided, an applicant for a qualification certificate shall pass the required examination and shall meet the following requirements prior to admission to the examination:

(a) Be at least 18 years of age.

(b) Not be subject to denial pursuant to Section 480.

(c) Have been actively engaged in the collection agency business for at least one year in this state or two years in another state during the five years next preceding the date on which his application is filed.

(d) Pay the application and examination fees as required by law.

(e) As used in subdivision (c), the term "actively engaged in the collection agency business" means that the applicant has been employed as a registered collector by a licensed collection agency in this state, or has been employed by a licensed collection agency and actively engaged in the collection of claims in another state where a licensing program exists. Where no such licensing program exists in the state where experience is claimed the applicant shall demonstrate that he or she has obtained the required experience while engaged in employment or self-employed, collecting claims for other under bona fide contracts of assignments.

SEC. 49. Section 7561.1 of the Business and Professions Code is amended to read:

7561.1. Notwithstanding Section 477, a firearm qualification card and a baton permit shall be considered a license subject to the terms of this section.

The director may deny, suspend, or revoke a license issued under this chapter if he or she determines that the licensee or his or her manager, if an individual, or if the licensee is a person other than an individual, that any of its officers, directors, partners, or its manager, has:

(a) Made any false statement or given any false information in connection with an application for a license or a renewal or reinstatement of a license.

(b) Violated any provisions of this chapter.

(c) Violated any rule of the director adopted pursuant to the authority contained in this chapter.

(d) Committed any act or crime constituting grounds for denial

of licensure under Section 480, including illegally using, carrying, or possessing a deadly weapon.

(e) Impersonated, or permitted or aided and abetted an employee to impersonate a law enforcement officer or employee of the United States of America, or of any state or political subdivision thereof.

(f) Committed or permitted any employee to commit any act, while the license was expired which would be cause for the suspension or revocation of a license, or grounds for the denial of an application for a license.

(g) Willfully failed or refused to render to a client services or a report as agreed between the parties and for which compensation has been paid or tendered in accordance with the agreement of the parties.

(h) Committed assault, battery, or kidnapping, or used force or violence on any person, without proper justification.

(i) Knowingly violated, or advised, encouraged, or assisted the violation of any court order or injunction in the course of business as a licensee.

(j) Acted as a runner or capper for any attorney.

(k) Been convicted of a violation of Section 148 of the Penal Code.

(*l*) Committed any act which is a ground for denial of an application for license under this chapter.

(m) Committed any act prohibited by Chapter 1.5 (commencing with Section 630) of Title 15 of Part 1 of the Penal Code.

(n) Purchased, possessed, or transported any tear gas weapon except as authorized by law. A violation of this subdivision may be punished by the suspension of a license for a period to be determined by the director.

SEC. 49.1. Section 9832 of the Business and Professions Code is repealed.

SEC. 49.2. Section 9832 is added to the Business and Professions Code, to read:

9832. (a) Registrations issued under this chapter shall expire no more than 12 months after the issue date. The expiration date of registrations shall be set by the director in a manner to best distribute renewal procedures throughout the year.

(b) To renew an unexpired registration, the service dealer shall, on or before the expiration date of the registration, apply for renewal on a form prescribed by the director, and pay the renewal fee prescribed by this chapter. To renew an expired registration, the service dealer shall apply for renewal on a form prescribed by the director, pay the renewal fee in effect on the last regular renewal date, and, if the registration is renewed more than 30 days after it ceased to be valid, pay the delinquency fee prescribed by this chapter. Renewal is effective on the date on which the application is filed and the renewal fee is paid. If there is a delinquency fee, renewal shall be effective upon payment of that fee.

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(c) For purposes of implementing the distribution of the renewal of registrations throughout the year, the director may extend by not more than six months, the date fixed by law for renewal of a registration, except that in such event any renewal fee which may be involved shall be prorated in such a manner that no person shall be required to pay a greater or lesser fee than would have been required had the change in renewal dates not occurred.

SEC. 49.3. Section 9832.1 of the Business and Professions Code is repealed.

SEC. 50. Section 19170.5 of the Business and Professions Code is amended to read:

19170.5. Licenses issued under this chapter expire two years from the date of issuance. To renew his or her license, a licensee shall, on or before the date on which it would otherwise expire, apply for renewal on a form prescribed by the chief, and pay the fee prescribed by Section 19170. If a licensee fails to renew his or her license before its expiration, a delinquency fee of 20 percent, but not more than fifty dollars ($50), notwithstanding the provisions of Section 163.5, shall be added to the renewal fee. If the renewal fee and delinquency fee are not paid within 90 days after expiration of a license, the licensee shall be assessed an additional penalty fee of 30 percent of the renewal fee. A license which is not renewed within one year of its expiration shall be canceled but the holder of a license may apply to have a license restored, reinstated, or reissued if all of the following within are satisfied:

(a) No fact, circumstance, or condition exists which would justify denial of licensure under Section 480.

(b) He or she pays all of the fees which would be required of any person then applying for that license for the first time.

(c) He or she pays all delinquent and penalty fees which have accrued.

(d) No change of ownership has occurred.

(e) The additional penalty fee shall only apply to those licenses which expire on or after January 1, 1992.

SEC. 51. Section 1812.519 of the Civil Code is amended to read:

1812.519. (a) No job listing service shall accept a fee from any jobseeker, or send any jobseeker for employment, without having obtained, in writing, a bona fide job order for employment.

(b) A job listing service shall identify itself as a job listing service to the employer in all instances in which it contacts an employer for the purposes of soliciting a job order. All job orders shall be recorded in writing. A job order for employment shall be considered to have been given by an employer to a job listing service under the following conditions:

(1) The employer, or his or her agent, in writing, registers a request or gives permission that the job listing service recruit or refer jobseekers who meet the employer's stated job specifications and the employer furnishes such information as required by subdivision (a) of Section 1812.516.

(2) A job order is valid for the referral of any qualified jobseeker until it is filled or canceled by the employer, and may serve as the basis for job listing service advertising. The job listing service is required to recontact the employer within the four-day period immediately preceding dissemination of the job listing information to ensure that the position is still vacant prior to any additional advertising or referral of jobseekers.

(c) No job listing service shall refer a jobseeker to a job knowing or having reason to know that:

(1) The job does not exist or the jobseeker is not qualified for the job.

(2) The job has been described or advertised by or on behalf of the job listing service in a false, misleading, or deceptive manner.

(3) The job listing service has not obtained written permission to list the job from the employer or an authorized agent of the employer.

(d) No job listing service shall exchange job orders with an employment agency which charges a placement fee.

CHAPTER 655

An act to amend Sections 1203.3 and 1382 of the Penal Code, relating to criminal procedure.

[Approved by Governor October 7, 1991. Filed with Secretary of State October 8, 1991.]

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

SECTION 1. It is the intent of the Legislature in enacting this bill to require that there be a hearing in open court before the judge with

notice and opportunity to be heard afforded the prosecuting attorney before a sentence or a term of probation is modified, under those circumstances where it is not otherwise required that the prosecuting attorney be notified of these activities. The Legislature is particularly concerned where the modification in sentence results in a reduction of the sentence or the term of probation.

SEC. 2. Section 1203.3 of the Penal Code is amended to read:

1203.3. (a) The court shall have authority at any time during the term of probation to revoke, modify, or change its order of suspension of imposition or execution of sentence. The court may at any time when the ends of justice will be subserved thereby, and when the good conduct and reform of the person so held on probation shall warrant it, terminate the period of probation, and discharge the person so held.

(b) The exercise of the court's authority in subdivision (a) to revoke, modify, change, or terminate probation is subject to the following:

(1) Before any sentence or term or condition of probation is modified, a hearing shall be held in open court before the judge. The prosecuting attorney shall be given a two-day written notice and an opportunity to be heard on the matter.

(A) If the sentence or term or condition of probation is modified pursuant to this section, the judge shall state the reasons for that modification on the record.

(B) As used in this section, modification of sentence shall include reducing a felony to a misdemeanor.

(2) No order shall be made without written notice first given by the court or the clerk thereof to the proper probation officer of the intention to revoke, modify, or change its order.

(3) In all cases, if the court has not seen fit to revoke the order of probation and impose sentence or pronounce judgment, the defendant shall at the end of the term of probation or any extension thereof, be by the court discharged subject to the provisions of these sections.

(c) If a probationer is ordered to serve time in jail, and the probationer escapes while serving that time, the probation is revoked as a matter of law on the day of the escape.

(d) If probation is revoked pursuant to subdivision (c), upon taking the probationer into custody, the probationer shall be accorded a hearing or hearings consistent with the holding in the case of People v. Vickers, 8 Cal. 3d 451. The purpose of that hearing or hearings is not to revoke probation, as the revocation has occurred as a matter of law in accordance with subdivision (c), but rather to afford the defendant an opportunity to require the prosecution to establish that the alleged violation did in fact occur and to justify the revocation.

(e) This section does not apply to cases covered by Section 1203.2.

SEC. 3. Section 1382 of the Penal Code is amended to read:

1382. (a) The court, unless good cause to the contrary is shown, shall order the action to be dismissed in the following cases:

(1) When a person has been held to answer for a public offense and an information is not filed against that person within 15 days thereafter.

(2) When a defendant is not brought to trial in a superior court within 60 days after the finding of the indictment or filing of the information or, in case the cause is to be tried again following a mistrial, an order granting a new trial from which an appeal is not taken, or an appeal from the superior court, within 60 days after the mistrial has been declared, after entry of the order granting the new trial, or after the filing of the remittitur in the trial court, or after the issuance of a writ or order which in effect grants a new trial, within 60 days after notice of the writ or order is filed in the trial court and served upon the prosecuting attorney, or within 90 days after notice of the writ or order is filed in the trial court and served upon the prosecuting attorney in any case where the district attorney chooses to resubmit the case for a preliminary examination after an appeal or the issuance of a writ reversing a judgment of conviction upon a plea of guilty prior to a preliminary hearing in a municipal or justice court. However, an action shall not be dismissed under this paragraph if either of the following circumstances exist:

(A) The defendant enters a general waiver of the 60-day trial requirement. A general waiver of the 60-day trial requirement entitles the superior court to set or continue a trial date without the sanction of dismissal should the case fail to proceed on the date set for trial. If the defendant, after proper notice to all parties, later withdraws his or her waiver in the superior court, the defendant shall be brought to trial within 60 days of the date of that withdrawal. If

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a general time waiver is not expressly entered, the provisions of subparagraph (B) shall apply.

(B) The defendant requests or consents to the setting of a trial date beyond the 60-day period. Whenever a case is set for trial beyond the 60-day period by request or consent, expressed or implied, of the defendant without a general waiver, the defendant shall be brought to trial on the date set for trial or within 10 days thereafter.

Whenever a case is not set for trial after a defendant enters either a general waiver as to the 60-day trial requirement or requests or consents, expressed or implied, to the setting of a trial date beyond the 60-day period pursuant to this paragraph, the court may not grant a motion of the defendant to vacate the date set for trial and to set an earlier trial date unless all parties are properly noticed and the court finds good cause for granting that motion.

(3) Regardless of when the complaint is filed, when a defendant in a misdemeanor case in an inferior court is not brought to trial within 30 days after he or she is arraigned or enters his or her plea, whichever occurs later, if the defendant is in custody at the time of arraignment or plea, or in all other cases, within 45 days after the defendant's arraignment or entry of the plea, whichever occurs later, or in case the cause is to be tried again following a mistrial, an order granting a new trial from which an appeal is not taken, or an appeal from the inferior court, within 30 days after the mistrial has been declared, after entry of the order granting the new trial, or after the remittitur is filed in the trial court or, if the new trial is to be held in the superior court, within 30 days after the judgment on appeal becomes final. However, an action shall not be dismissed under this subdivision if either of the following circumstances exist:

(A) It is set for trial on a date beyond the prescribed period at the request of the defendant or with the defendant's consent, express or implied, and the defendant is brought to trial on the date so set for trial or within 10 days thereafter.

(B) It is not tried on the date set for trial because of the defendant's neglect or failure to appear, in which case the defendant shall be deemed to have been arraigned within the meaning of this subdivision on the date of his or her subsequent arraignment on a bench warrant or his or her submission to the court.

(b) Whenever a defendant has been ordered to appear in superior court on a case set for trial or set for a hearing prior to trial, if the defendant fails to appear on that date and a bench warrant is issued, the defendant shall be brought to trial within 60 days after the defendant next appears in the superior court unless a trial date had previously been set which is beyond that 60-day period.

(c) If the defendant is not represented by counsel, the defendant shall not be deemed under this section to have consented to the date for the defendant's trial unless the court has explained to the defendant his or her rights under this section and the effect of his or her consent.

CHAPTER 656

An act to amend Sections 2800.3, 13201, 13350, 13350.5, and 13351 of the Vehicle Code, relating to vehicles.

[Approved by Governor October 7, 1991 Filed with Secretary of State October 8, 1991]

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

SECTION 1. Section 2800.3 of the Vehicle Code is amended to read:

2800.3. Whenever willful flight or attempt to elude a pursuing peace officer in violation of Section 2800.1 proximately causes death or serious bodily injury to any person, the person driving the pursued vehicle, upon conviction, shall be punished by imprisonment in the state prison for two, three, or four years or by imprisonment in the county jail for not more than one year, or by a fine of not less than one thousand dollars ($1,000) nor more than ten thousand dollars ($10,000), or by both that fine and imprisonment.

For purposes of this section, "serious bodily injury" has the same meaning as defined in paragraph (5) of subdivision (f) of Section 243 of the Penal Code.

SEC. 2. Section 13201 of the Vehicle Code is amended to read:

13201. A court may suspend, for not more than six months, the privilege of any person to operate a motor vehicle upon conviction of any of the following offenses:

(a) Failure of the driver of a vehicle involved in an accident to stop or otherwise comply with Section 20002.

(b) Reckless driving proximately causing bodily injury to any person under Section 23104.

(c) Failure of the driver of a vehicle to stop at a railway grade crossing as required by Section 22452.

(d) Evading a peace officer in violation of Section 2800.1 or 2800.2, or in violation of Section 2800.3 if the person's license is not revoked for that violation pursuant to paragraph (3) of subdivision (a) of Section 13351.

SEC. 3. Section 13350 of the Vehicle Code is amended to read:

13350. (a) The department shall immediately revoke the privilege of any person to drive a motor vehicle upon receipt of a duly certified abstract of the record of any court showing that the person has been convicted of any of the following crimes or offenses:

(1) Failure of the driver of a vehicle involved in an accident resulting in injury or death to any person to stop or otherwise comply with Section 20001.

(2) Any felony in the commission of which a motor vehicle is used, except as provided for in Section 13351, 13352, or 13357.

(3) Reckless driving causing bodily injury.

(b) If a person is convicted of a violation of Section 23152

punishable under Section 23170 or 23175, or a violation of Section 23153 punishable under Section 23190, including a violation of paragraph (3) of subdivision (c) of Section 192 of the Penal Code as provided in Section 193.7 of that code, the court shall, at the time of surrender of the driver's license or temporary permit, require the defendant to sign an affidavit in a form provided by the department acknowledging his or her understanding of the revocation required by paragraph (5), (6) or (7) of subdivision (a) of Section 13352 and an acknowledgment of his or her designation as an habitual traffic offender. A copy of this affidavit shall be transmitted with the license or temporary permit to the department within the prescribed 10 days.

(c) The department shall not reinstate the privilege revoked under subdivision (a) until the expiration of one year after the date of revocation and until the person whose privilege was revoked gives proof of ability to respond in damages as defined in Section 16430.

SEC. 4. Section 13350.5 of the Vehicle Code is amended to read:

13350.5. Notwithstanding Section 13350, for the purposes of this article, conviction of a violation of paragraph (3) of subdivision (c) of Section 192 of the Penal Code is a conviction of a violation of Section 23153.

SEC. 5. Section 13351 of the Vehicle Code is amended to read:

13351. (a) The department shall immediately revoke the privilege of any person to drive a motor vehicle upon receipt of a duly certified abstract of the record of any court showing that the person has been convicted of any of the following crimes or offenses:

(1) Manslaughter resulting from the operation of a motor vehicle except when convicted under paragraph (2) of subdivision (c) of Section 192 of the Penal Code.

(2) Upon conviction of three or more violations of Section 20001, 20002, 23103, or 23104 within a period of 12 months from the time of the first offense to the third or subsequent offense, or upon a combination of three or more convictions of violations within a like period.

(3) Violation of Section 191.5 of the Penal Code or of Section 2800.3 causing serious bodily injury resulting in a serious impairment of physical condition, including, but not limited to, loss of consciousness, concussion, serious bone fracture, protracted loss or impairment of function of any bodily member or organ, and serious disfigurement.

(b) The department shall not reinstate the privilege revoked under subdivision (a) until the expiration of three years after the date of revocation and until the person whose privilege was revoked gives proof of ability to respond in damages as defined in Section 16430.

CHAPTER 657

An act to amend Section 13967 of the Government Code, relating to the indemnification of victims of crime.

[Approved by Governor October 7, 1991 Filed with Secretary of State October 8, 1991.]

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

SECTION 1. Section 13967 of the Government Code is amended to read:

13967. (a) Upon a person being convicted of any crime in the State of California, the court shall, in addition to any other penalty provided or imposed under the law, order the defendant to pay restitution in the form of a penalty assessment in accordance with Section 1464 of the Penal Code and to pay restitution to the victim in accordance with subdivision (c). In addition, if the person is convicted of one or more felony offenses, the court shall impose a separate and additional restitution fine of not less than one hundred dollars ($100) and not more than ten thousand dollars ($10,000). In setting the amount of the fine for felony convictions, the court shall consider any relevant factors including, but not limited to, the seriousness and gravity of the offense and the circumstances of its commission, any economic gain derived by the defendant as a result of the crime, and the extent to which others suffered losses as a result of the crime. Those losses may include pecuniary losses to the victim or his or her dependents as well as intangible losses, such as psychological harm caused by the crime. Except as provided in Section 1202.4 of the Penal Code and subdivision (c) of this section, under no circumstances shall the court fail to impose the separate and additional restitution fine required by this section. This fine shall not be subject to penalty assessments as provided in Section 1464 of the Penal Code.

(b) Except as provided in subdivision (c), the fine imposed pursuant to this section shall be deposited in the Restitution Fund in the State Treasury. Notwithstanding Section 13340, the proceeds in the Restitution Fund are hereby continuously appropriated to the board for the purpose of indemnifying persons filing claims pursuant to this article. However, the funds appropriated pursuant to this section for administrative costs of the State Board of Control shall be subject to annual review through the state budget process.

(c) In cases in which a victim has suffered economic loss as a result of the defendant's criminal conduct, and the defendant is denied probation, in lieu of imposing all or a portion of the restitution fine, the court shall order restitution to be paid to the victim. If a defendant has been convicted of a felony violation of Section 288 of the Penal Code, restitution to the victim may be ordered whether or not the defendant is denied probation. Notwithstanding subdivision

(a), restitution shall be imposed in the amount of the losses, as determined. The court shall order full restitution unless it finds clear and compelling reasons for not doing so, and states them on the record. A restitution order imposed pursuant to this subdivision shall identify the losses to which it pertains, and shall be enforceable as a civil judgment. The making of a restitution order pursuant to this subdivision shall not affect the right of a victim to recovery from the Restitution Fund in the manner provided elsewhere, except to the extent that restitution is actually collected pursuant to the order. Restitution collected pursuant to this subdivision shall be credited to any other judgments for the same losses obtained by the victim against the defendant arising out of the crime for which the defendant was convicted.

Restitution ordered pursuant to this subdivision shall, to the extent possible, be of a dollar amount that is sufficient to fully reimburse the victim, or victims, for all determined economic losses incurred as the result of the defendant's criminal conduct. If the conviction is for felony violation of Section 288 of the Penal Code, the court may also order that the restitution be paid to the victim to cover noneconomic losses, including, but not limited to, psychological harm.

For any order of restitution made pursuant to this subdivision, the defendant shall have the right to a hearing before the judge to dispute the determination made regarding the amount of restitution.

(d) At its discretion, the board of supervisors of any county may impose a fee to cover the actual administrative cost of collecting the restitution fine, not to exceed 10 percent of the amount ordered to be paid, to be added to the restitution fine and included in the order of the court, the proceeds of which shall be deposited in the general fund of the county.

CHAPTER 658

An act to add Sections 29900.5 and 43602.5 to the Government Code, relating to municipal bonds, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 7, 1991 Filed with Secretary of State October 8, 1991.]

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

SECTION 1. Section 29900.5 is added to the Government Code, to read:

29900.5. (a) A county may also issue bonds pursuant to this chapter for the purpose of seismic strengthening of unreinforced buildings and other buildings. Proceeds of bonds authorized pursuant to this section may be used to make loans to public entities or owners of private buildings. Loans shall satisfy all of the following:

(1) Any loan used to finance seismic strengthening of a residential structure containing units rented by households specified in Section 50079.5 of the Health and Safety Code before strengthening shall be subject to a regulatory agreement which will ensure that the number of those units in the structure will not be reduced and will remain available at affordable rents pursuant to Section 50053 of the Health and Safety Code as long as any portion of the loan is unpaid.

(2) All seismic strengthening financed with any loan funded pursuant to this section shall be in accordance with a plan developed for the structure by a civil engineer or an architect, or approved by a county building official, one of whom shall certify that the work funded is necessary for seismic safety reasons, or is otherwise legally required for completion of the work or occupancy of the building. In no event shall any loan funded pursuant to this section finance the destruction of any existing building or the construction of any new building.

(3) Any amount received in payment of interest on or to repay principal on any loan made pursuant to this section shall be used to pay debt service on bonds authorized pursuant to this section, or shall be used to fund additional loans for seismic strengthening, except that the provisions of this paragraph shall not apply after the bonds, including any bonds issued to refund the bonds, are fully repaid.

(4) Loans made pursuant to this section shall constitute liens in favor of the county when recorded by the county recorder of the county in which the real property is located. The lien shall contain the legal description of the real property, the assessor's parcel number, and the name of the owner of record as shown on the latest equalized assessment roll.

(5) The board of supervisors may specify the interest rate, term, and other provisions of any loan made pursuant to this section.

(6) A county may issue bonds and make loans pursuant to this section only if the county has completed an inventory of unreinforced masonry structures within its jurisdiction and has adopted a mitigation ordinance pursuant to Section 8875.2 or Section 19163 of the Health and Safety Code. The county shall establish criteria, terms, and conditions to identify eligible buildings.

(b) The board of supervisors is authorized to expend the proceeds of bonds authorized by this section to make loans pursuant to this section. Loans made pursuant to this section shall not be construed to be gifts of public funds in violation of Section 6 of Article XVI of the California Constitution.

SEC. 2. Section 43602.5 is added to the Government Code, to read:

43602.5. A city or a city and county may also incur indebtedness pursuant to this chapter for seismic strengthening of unreinforced buildings and other buildings. Proceeds of bonds authorized pursuant to this section may be used to make loans to public entities or owners of private buildings. Loans shall satisfy all of the following:

(1) Any loan used to finance seismic strengthening of a residential

structure containing units rented by households specified in Section 50079.5 of the Health and Safety Code before strengthening shall be subject to a regulatory agreement which will ensure that the number of those units in the structure will not be reduced and will remain available at affordable rents pursuant to Section 50053 of the Health and Safety Code as long as any portion of the loan is unpaid.

(2) All seismic strengthening financed with any loan funded pursuant to this section shall be in accordance with a plan developed for the structure by a civil engineer or an architect, or approved by a city or city and county building official, one of whom shall certify that the work funded is necessary for seismic safety reasons, or is otherwise legally required for completion of the work or occupancy of the building. In no event shall any loan funded pursuant to this section finance the destruction of any existing building or the construction of any new building.

(3) Any amount received in payment of interest on or to repay principal on any loan made pursuant to this section shall be used to pay debt service on bonds authorized pursuant to this section, or shall be used to fund additional loans for seismic strengthening, except that the provisions of this paragraph shall not apply after the bonds, including any bonds issued to refund the bonds, are fully repaid.

(4) Loans made pursuant to this section shall constitute liens in favor of the city or city and county when recorded by the county recorder of the county in which the real property is located. The lien shall contain the legal description of the real property, the assessor's parcel number, and the name of the owner of record as shown on the latest equalized assessment roll.

(5) The legislative body of the city or city and county may specify the interest rate, term, and other provisions of any loan made pursuant to this section.

(6) A city or city and county may issue bonds and make loans pursuant to this section only if the city or city and county has completed an inventory of unreinforced masonry structures within its jurisdiction and has adopted a mitigation ordinance pursuant to Section 8875.2 or Section 19163 of the Health and Safety Code. The city or city and county shall establish criteria, terms, and conditions to identify eligible buildings.

(b) The legislative body of the city or city and county is authorized to expend the proceeds of bonds authorized by this section to make loans pursuant to this section. Loans made pursuant to this section shall not be construed to be gifts of public funds in violation of Section 6 of Article XVI of the California Constitution.

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

In order to permit counties and cities to finance and effect the seismic strengthening of buildings at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 659

An act to amend Section 69774 of, and to add Sections 69763.1, 69763.2, 69763.3, and 69763.4 to, the Education Code, and to amend Section 1095 of the Unemployment Insurance Code, relating to the Student Aid Commission.

[Approved by Governor October 7, 1991. Filed with Secretary of State October 8, 1991.]

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

SECTION 1. Section 69763.1 is added to the Education Code, to read:

69763.1. (a) If a borrower defaults on a guaranteed student loan and the lender's default claim has been paid, the Student Aid Commission shall fulfill the collection efforts required by federal law, which includes initiating a civil suit against the borrower for repayment of the loan.

(b) After the period specified in federal law for commencing action, the amount of the promissory note, plus interest and costs, may be collected by the filing of a certificate requesting judgment pursuant to subdivision (c) or by other appropriate civil action.

(c) If the loan principal, interest, and predefault and collection costs are not paid when due, and there is evidence that the borrower does not intend to pay under the terms of the promissory note or promissory notes, the commission may file in the office of the County Clerk of Sacramento County, or any other county, a certificate specifying the amount of the loan principal, interest, and predefault and collection costs due, the name and last known address of the individual liable for the amount due, the fact that the commission has complied with all applicable state and federal laws in the computation of the amount due, and a request that judgment be entered against the individual in the amount of the loan principal, interest, and predefault and collection costs specified in the certificate.

(d) Prior to the filing of the certificate, the commission shall, by mail, notify the individual of the amount that is due and of the opportunity for a hearing. If a hearing is requested, 10 days' notice shall be given of the time and place of the hearing, which shall be held in Sacramento County or, if properly requested, the county of residence of the person requesting the hearing. The hearing shall be conducted by a referee who shall submit findings and recommendations to the director of the commission, or an authorized representative, who shall decide the matter. The decision shall be effective upon notice to the interested parties. The director of the commission, or the authorized representative, may rescind the decision and reconsider the matter for good cause shown at any time within three years after the date the disputed loan first became due,

or within one year from the hearing, whichever is later. If no hearing is requested within 15 days after mailing the notice required by this subdivision, the certificate required by subdivision (b) may be filed.

SEC. 2. Section 69763.2 is added to the Education Code, to read:

69763.2. (a) The county clerk, immediately upon the filing of the certificate specified in Section 69763.1, shall enter a judgment for the people of the State of California against the individual in the amount of the loan principal, interest, and predefault and collection costs listed on the certificate. The county clerk may file the judgment in the book entitled "California Student Aid Commission Judgments."

(b) Execution shall issue upon the judgment specified in subdivision (a) upon request of the Student Aid Commission in the same manner as execution may issue upon other judgments as prescribed in the Code of Civil Procedure.

(c) At least 10 days before executing any writ to collect, the commission shall send notice of the intent to execute upon a writ to the borrower and to any cosigners, by certified mail, to the most recent addresses maintained in the files of the commission. Any person receiving the notice of the intent to execute upon a writ may request a hearing to contest the existence or the amount of the writ. At the request of the individual, the commission shall conduct a hearing pursuant to Section 69763.1, at which it shall be determined whether the loan principal, interest, and predefault and collection costs in the amount claimed by the commission are due and whether the individual named on the certificate is liable for the amount. If no hearing is requested, the execution shall be commenced for the garnishment of wages, the attachment of property, or other legal collection action.

SEC. 3. Section 69763.3 is added to the Education Code, to read:

69763.3. At any time before wages are garnished or a lien is placed on property, a borrower may pay the Student Aid Commission the amount of the recorded judgment, plus costs. If that payment is made, wage garnishment or the attachment of property shall not commence. The payment shall not constitute a waiver of the right to a hearing.

SEC. 4. Section 69763.4 is added to the Education Code, to read:

69763.4. If the Student Aid Commission, or an authorized agent, has reasonable cause to believe that a lien on property may be jeopardized within the 10-day notice-of-intent period, the lien may be filed without prior notice. The commission shall provide notice of the attachment of property by lien to the owner and to any other person known to be claiming an interest in the property, within 48 hours after filing, excluding Saturdays, Sundays, and the holidays specified in Section 6700 of the Government Code. Any hearing to contest the lien shall be requested within 10 days following transmittal of the notice.

SEC. 5. Section 69774 of the Education Code is amended to read:

69774. (a) Each application form for one of the California Loan Programs shall include a notice to the student informing him or her

that the commission is entitled to seek employment, wage, and other information from the Employment Development Department on any person who defaults on a guaranteed student loan. The application form shall also include an authorization from the student releasing this information to the commission for purposes of collecting on a defaulted loan.

(b) A common application form may be utilized for student loans in compliance with the program eligibility and financial forms specified in Section 69534.1.

SEC. 6. Section 1095 of the Unemployment Insurance Code is amended to read:

1095. The director shall permit the use of any information in his or her possession to the extent necessary for any of the following purposes:

(a) To properly present a claim for benefits.

(b) To acquaint a worker or his or her authorized agent with his or her existing or prospective right to benefits.

(c) To furnish an employer or his or her authorized agent with information to enable him or her to fully discharge his or her obligations or safeguard his or her rights under this division or Division 3 (commencing with Section 9000). This subdivision, as it relates to Division 3 (commencing with Section 9000), applies only to subdivision (j) of this section.

(d) To enable an employer to receive a reduction in contribution rate.

(e) To enable the Director of Social Services or his or her representatives or the State Director of Health Services or his or her representatives, subject to federal law, to verify or determine the eligibility or entitlement of an applicant for, or a recipient of, public social services provided pursuant to the Welfare and Institutions Code, and directly connected with, and limited to, the administration of public social services.

(f) To enable county administrators of general relief or assistance, or their representatives, to determine entitlement to locally provided general relief or assistance, where the determination is directly connected with, and limited to, the administration of general relief or assistance.

(g) To enable county district attorneys, or their representatives, to seek criminal, civil, or administrative remedies in connection with the unlawful application for, or receipt of, relief provided under Division 9 (commencing with Section 10000) of the Welfare and Institutions Code.

(h) To enable the director or his or her representative to carry out his or her responsibilities under this code.

(i) To enable county departments of collection or their representatives to determine entitlement to medical assistance services rendered pursuant to Part 5 (commencing with Section 17000) of Division 9 of the Welfare and Institutions Code, and, when appropriate, to enable collection for the county's expenditures for

these medical assistance services.

(j) To furnish an employer, or his or her authorized agent, with information including, but not limited to, the applicant's or recipient's name, social security number, address, employable skills, and job placement in order to enable him or her to fully discharge his or her obligations or safeguard his or her rights under the elements of a joint union, management, and Employment Development Department agreement as are deemed necessary to assist displaced workers to obtain new employment under the provisions of Chapter 2.9 (commencing with Section 9970) of Part 1 of Division 3 and related provisions of Division 3 (commencing with Section 9000). The information shall be limited to any information gathered under these divisions by the department and authorized for release by the labor organization which shall act as an agent for the affected workers under terms of the agreement and shall participate in defining the information release provisions.

(k) To provide any law enforcement agency with the name, address, telephone number, birth date, social security number, physical description, and names and addresses of present and past employers, of any victim, suspect, missing person, potential witness, or person for whom a felony arrest warrant has been issued, when a request for this information is made by any investigator or peace officer as defined by Sections 830.1 and 830.2 of the Penal Code and designated by the head of the law enforcement agency and who requests this information in the course of and as a part of an investigation into the commission of a crime where there is a reasonable suspicion that the crime is a felony and that the information would lead to relevant evidence. The information provided pursuant to this subdivision shall be provided to the extent permitted by federal law and regulations, and to the extent the information is available and accessible within the constraints and configurations of existing department records. Any person who receives any information under this subdivision shall make a written report of the information to the law enforcement agency that employs him or her, for filing under the normal procedures of that agency. Any officer or employee of the department who discloses information in violation of this subdivision is guilty of a misdemeanor. Any person who obtains information in violation of this subdivision is guilty of a misdemeanor.

(1) This subdivision shall not be construed to authorize the release of a general list identifying individuals applying for or receiving benefits to any law enforcement agency.

(2) The department shall maintain records pursuant to this subdivision only for periods required under regulations or statutes enacted for the administration of its programs.

(3) This subdivision shall not be construed as limiting the information provided to law enforcement agencies to that pertaining only to applicants for, or recipients of, benefits.

(4) The department shall notify all applicants for benefits that

release of confidential information from their records will not be protected should there be a felony arrest warrant issued against the applicant or in the event of an investigation by a law enforcement agency into the commission of a felony.

(*l*) Nothing in this section shall be construed to authorize or permit the use of information obtained in the administration of this code by any private collection agency.

(m) To provide the State Teachers' Retirement System, pursuant to Section 23910.3 of the Education Code, with information relating to the earnings of any person who is receiving a disability allowance from the State Teachers' Retirement System. The earnings information shall be released to the Teachers' Retirement Board only upon written request from the board specifying that the person is receiving a disability allowance from the system. The request may be made by the chief executive officer of the system or by an employee of the system so authorized and identified by name and title by the chief executive officer in writing.

(n) To provide the Public Employees' Retirement System, pursuant to Section 20143 of the Government Code, with information relating to the earnings of any person who is receiving a disability retirement allowance from the Public Employees' Retirement System. The earnings information shall be released to the Board of Administration of the system only upon written request from the board specifying that the person is receiving a disability retirement allowance from the system. The request may be made by the executive officer of the system or by an employee of the system so authorized and identified by name and title by the executive officer in writing.

(o) To provide the University of California Retirement System with information in its possession relating to the earnings of any person who has applied for or is receiving disability income from the system. The earnings information shall be disclosed only upon written request from the system specifying that the person has applied for or is receiving disability income from the system. The request may be made by the chief administrative officer of the system or by an employee so authorized and identified by name and title by the chief administrative officer in writing. The system shall notify applicants for and recipients of disability income that earnings information from the department's records will be released upon the system's request. The information obtained pursuant to this subdivision shall be used or disclosed by the system only to determine or to verify entitlement to, or continuing eligibility for, disability income. The system shall reimburse the department for all reasonable administrative expenses incurred pursuant to this subdivision.

(p) To enable the Division of Labor Standards Enforcement in the Department of Industrial Relations to seek criminal, civil, or administrative remedies in connection with the failure to pay, or the unlawful payment of, wages pursuant to Chapter 1 (commencing

with Section 200) of Part 1 of Division 2 of, and Chapter 1 (commencing with Section 1720) of Part 7 of Division 2 of, the Labor Code. The Division of Labor Standards Enforcement shall reimburse the department for all reasonable administrative expenses incurred pursuant to this subdivision.

(q) To enable the federal Department of Health and Human Services, Office of Child Support Enforcement, Federal Parent Locator Service, to administer its child support enforcement programs under Title IV of the Social Security Act (42 U.S.C. Sec. 651 et seq.).

(r) To provide county probation departments with wage and claim information in its possession that will assist those departments in the location of victims of crime who, by state mandate or court order, are entitled to restitution that has been, or can be recovered, and to assist in the collection of money owed to the county or the state by any person who has been directed by state mandate or court order to pay restitution, fines, penalties, assessments, or fees as a result of a violation of law. Information provided about victims of crime shall be limited to data necessary to assist in locating them. The county shall reimburse the department for all reasonable administrative expenses incurred pursuant to this subdivision. Any officer or employee of the department who discloses information in violation of this subdivision is guilty of a misdemeanor. Any person who obtains information in violation of this subdivision is guilty of a misdemeanor.

(s) To provide the Student Aid Commission with information concerning any individuals who are delinquent or in default on guaranteed student loans or who owe repayment of funds received through other financial assistance programs administered by the commission. The information obtained pursuant to this subdivision shall be utilized by the commission exclusively to enable the collection of defaulted loans and other funds owed, pursuant to the authority granted in Chapter 2 (commencing with Section 69500) of Part 42 of the Education Code and Chapter 1 (commencing with Section 30000) of Title 5 of the California Code of Regulations. The information released by the director for the purposes of this subdivision shall not include any employment, wage, or other information concerning any person who is receiving unemployment insurance benefits. The information shall be released to the commission only upon written request from the director of the commission or by an employee so authorized and identified by name and title by the director. The commission shall reimburse the department for all reasonable administrative expenses incurred pursuant to this subdivision.

SEC. 7. The Employment Development Department shall conduct a review and analysis of all of the provisions of the Unemployment Insurance Code that relate to the disclosure of confidential wage and claimant data maintained by the department, including, but not limited to, Sections 322, 1094, and 1095. The

department shall report its findings to the Legislature by February 1, 1992. The findings shall include proposals for changes in current law to provide a consistent policy that will adequately protect confidential wage and claimant information while meeting information sharing needs required by federal statute, required for collection of debts and revenues owed the state, and required for law enforcement and program eligibility.

CHAPTER 660

An act to add Chapter 1.8 (commencing with Section 8170) to, and to add Chapter 1.9 (commencing with Section 8180) to, Part 6 of Division 1 of Title 1 of the Education Code, relating to child care, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 7, 1991. Filed with Secretary of State October 8, 1991.]

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

SECTION 1. Chapter 1.8 (commencing with Section 8170) is added to Part 6 of Division 1 of Title 1 of the Education Code, to read:

CHAPTER 1.8. TRUSTLINE: A REGISTRY FOR INDIVIDUALS RESPONSIBLE FOR THE CARE AND SUPERVISION OF CHILDREN

8170. (a) Any child care provider who possesses any one of the following identification cards may initiate a background examination process pursuant to this chapter: (1) a valid California driver's license, (2) a valid identification card issued by the Department of Motor Vehicles, (3) a valid Alien Registration Card, or (4) in the case of a person living in a state other than California, a valid numbered photo identification card issued by an agency of the state other than California.

(b) "Child care provider" or "providers" for the purposes of this chapter means a person 18 years of age or older who provides child care or supervision and who is not required to be licensed pursuant to Section 1596.792 of the Health and Safety Code.

8171. (a) Each provider initiating a background examination process pursuant to this chapter shall obtain one set of fingerprints from a law enforcement agency or other local agency on a fingerprint card authorized by the Department of Justice and shall submit the fingerprints and a completed trustline application to the Department of Justice. The agency taking the fingerprints shall inscribe the serial number from the identification card described in Section 8170 on the fingerprint cards.

(b) A law enforcement agency or other local agency authorized

to take fingerprints may charge a reasonable fee to offset the costs of fingerprinting for the purposes of this chapter.

(c) The Department of Justice shall use the fingerprints to search the California Criminal History System and the California Child Abuse Central Index.

8172. (a) The Department of Justice shall establish a trustline registry pursuant to this chapter. Upon submission of the trustline application and fingerprints pursuant to subdivision (a) of Section 8171, the Department of Justice shall enter into the trustline registry the provider's name, identification card number, and an indicator that the provider has submitted an application and fingerprints. This provider shall be known as a "trustline applicant."

(b) Upon completion of the searches of the California Criminal History System and the California Child Abuse Central Index, if no reported criminal conviction or substantiated child abuse information that would disqualify the provider from being licensed by the State Department of Social Services as a child care provider is found, the Department of Justice shall enter that finding in the provider's record in the trustline registry and shall notify the provider of the action. This provider shall be known as a "registered trustline child care provider."

(c) If, in any of the two searches, or in any report that is received by the Department of Justice subsequent to these searches, reported criminal conviction or substantiated child abuse information for which the provider could not request an exemption from the Director of Social Services for a license as a child care provider is found, the Department of Justice shall notify the provider that he or she is not eligible to be a registered trustline child care provider, or in the case where a provider was previously registered, that he or she is no longer eligible to be a registered trustline child care provider. Also the provider's record as a trustline applicant or a registered child care provider shall be removed from the registry.

(d) (1) If, in any of the two searches, or in any report that is received by the Department of Justice subsequent to these searches, reported criminal conviction or substantiated child abuse information for which the provider could request an exemption from the Director of Social Services for a license as a child care provider is found, the Department of Justice shall review the information and either register the person as a registered trustline child care provider or deny the registration. In either case, the Department of Justice shall notify the provider of its action. In the event of a denial, the Department of Justice shall remove the provider's record as a trustline applicant from the registry.

(2) If the Department of Justice denies registration pursuant to paragraph (1), it shall advise the provider of the right to appeal. The provider shall have 15 days to appeal the denial. Upon receipt by the Department of Justice of the appeal, the appeal shall be set for hearing. The hearing shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title

2 of the Government Code, and the department has all the powers granted in that chapter.

(e) (1) The Department of Justice shall adopt regulations that are parallel to those used by the State Department of Social Services in determining whether a person applying for a license for a child day care facility may be granted an exemption to work in a day care facility despite a criminal conviction or a determination of substantiated child abuse. If an appeal is requested, the Department of Justice shall make the determination within 30 days, based upon the regulations adopted.

(2) Notwithstanding paragraph (1), the background examination required pursuant to this chapter shall not include review of the Automated Name Index of the Department of Motor Vehicles.

(3) In order to expedite the implementation of this chapter, regulations adopted for the purposes of Chapter 3.65 (commencing with Section 1597.80) shall be used for the purposes of this chapter to the extent that those regulations are consistent with this chapter.

(f) The Department of Justice may charge a provider initiating a background examination a fee not to exceed the actual costs of the searches of the California Criminal History System and the California Child Abuse Central Index.

(g) The Department of Justice shall maintain and continually update an index of reports of substantiated child abuse by, and pertinent criminal convictions of, providers and shall review the reports received from the child abuse index pursuant to Section 11170 of the Penal Code to determine if the child abuse of the provider is substantiated. The Department of Justice shall continually update the trustline registry pursuant to the actions required in subdivisions (c) and (d) of this section.

(h) The Department of Justice shall provide the California Child Care Resource and Referral Network with a continually updated record of the trustline applicants and the registered trustline child care providers.

(i) Notwithstanding any provision of law to the contrary, including Part 3 (commencing with Section 900) of Division 3.6 of Title 1 of the Government Code, state officers or employees shall not be liable for any damages caused by their conduct pursuant to this chapter except for intentional acts or gross negligence.

(j) Nothing in this chapter shall preclude the Superintendent of Public Instruction from compiling additional information from any source concerning the employment of any child care provider who is compensated with funds administered by the State Department of Education.

8173. The State Department of Education shall enter into a contract with the California Child Care Resource and Referral Network to administer the trustline.

8174. (a) The California Child Care Resource and Referral Network shall have the following responsibilities:

(1) Establish and maintain a toll-free telephone line to allow

parents, employment agencies, child care referral groups and registries, alternative payment programs, and others to determine if a provider is a trustline applicant or a registered trustline child care provider.

(2) Develop a statewide promotion plan, publicize statewide the existence, benefits, and methods of accessing the trustline for both parents and providers, and distribute trustline applications statewide.

(3) Monitor and provide assistance to the child care resource and referral agencies in carrying out their trustline responsibilities.

(4) Collect data for the purposes of Section 8179.

(5) Seek private financial support for the trustline.

(6) Ensure that the trustline is accessible to all persons in the state, regardless of their income or their ability to speak English.

(b) Officers or employees of the California Child Care Resource and Referral Network shall not be liable for any injury caused by their conduct pursuant to paragraph (1) of subdivision (a), except for intentional conduct or gross negligence.

1597.95. The California Child Care Resource and Referral Network shall, in consultation with representatives of private industry, parents, child care resource and referral agencies, the Department of Justice, the State Department of Social Services, the State Department of Education, trustline providers, employment agencies, and the pediatric health sector, review and make recommendations concerning the operation of the trustline.

8176. A private employment agency that refers a child care provider who is not required to be licensed pursuant to Section 1596.792 of the Health and Safety Code to parents or guardians shall not make a referral of a provider who is not a trustline applicant or a registered trustline child care provider.

This section shall become operative six months after the date this chapter becomes operative.

8177. (a) This chapter shall become inoperative during any fiscal year in which either the State Department of Education or the Department of Justice delivers to the Chief Clerk of the Assembly and to the Secretary of the Senate a written statement indicating that the agency does not have sufficient funding to perform its duties under this chapter for that fiscal year.

(b) After this chapter becomes inoperative pursuant to subdivision (a), this chapter shall only again become operative after the Department of Education or the Department of Justice delivers to the Chief Clerk of the Assembly and to the Secretary of the Senate a written statement indicating that the agency has sufficient funding to perform its duties under this chapter.

(c) It is the intent of the Legislature that funding for the purposes of this chapter be provided in the Budget Act of 1992 and in each fiscal year thereafter.

8178. (a) A child care resource and referral agency established pursuant to Article 2 (commencing with Section 8210) of Chapter 2

of Part 6 of Division 1 of Title 1 of the Education Code shall have the following responsibilities in the administration of the trustline within its local geographic area of service:

(1) Implement the local elements of the promotion plan designed by the California Child Care Resource and Referral Network pursuant to Section 8174. Publicize the availability, purpose, and benefits of the trustline to parents, child care providers, prospective child care providers, and institutions and agencies which have frequent contact with parents and providers.

(2) Cooperate with the California Child Care Resource and Referral Network in promotional and data collection efforts.

(3) Report annually to the California Child Care Resource and Referral Network on local promotional efforts, problems encountered, and recommendations for program improvement.

(4) Ensure that the trustline is accessible to all persons in the state, regardless of their income or their ability to speak English.

(b) Each Child Care Resource and Referral Agency shall be annually allocated by the State Department of Education four cents ($0.04) per child aged zero to 14 years residing in the agency's designated service area.

8179. (a) The State Department of Education shall, in consultation with the representatives pursuant to Section 8175, select, contract with, and monitor a private consultant for the purpose of evaluating the trustline. The evaluation shall at a minimum address the following:

(1) The extent to which the trustlines registration system identifies persons seeking child care employment who have a reported criminal conviction or about whom there is substantiated child abuse information.

(2) The level of participation by parents, guardians, and child care providers.

(3) Obstacles to maximizing the benefits of the trustline registry.

(b) The State Department of Education shall transmit interim evaluation reports to the Legislature on or before September 30 of the second calendar year in which the program established by this chapter is in operation, and on or before September 30th of each subsequent year in which this program is in operation. The State Department of Education shall transmit the final evaluation report developed pursuant to subdivision (a), along with conclusions and recommendations that it develops in consultation with the Child Care Resource and Referral Network and the representatives pursuant to Section 8175, to the Legislature on or before January 1 of the fifth year in which the program is in operation.

SEC. 2. Chapter 1.9 (commencing with Section 8180) is added to Part 6 of Division 1 of Title 1 of the Education Code, to read:

CHAPTER 1.9. REGISTRATION OF CHILD CARE PROVIDERS FUNDED THROUGH THE ALTERNATIVE PAYMENT PROGRAM OR THE FEDERAL CHILD CARE AND DEVELOPMENT BLOCK GRANT

8180. (a) Each child care provider, as defined pursuant to Section 8170, who is compensated, in whole or in part, with funds provided pursuant to the Alternative Payment Program (Article 3 (commencing with Section 8220) of Chapter 2 of Part 6 of the Education Code) or pursuant to the federal Child Care and Development Block Grant Program shall be registered pursuant to Sections 8171 and 8172 in order to be eligible to receive this compensation. Registration under this chapter shall be required for providers that receive funds under Section 601 et seq. of Title 42 of the United States Code only to the extent permitted by that law and the regulations adopted pursuant thereto. Registration under this chapter shall be required for providers that receive funds under the federal Child Care and Development Block Grant Program only to the extent permitted by that program and the regulations adopted pursuant thereto.

(b) For the purposes of registration of the providers identified in subdivision (a), the following procedures shall apply:

(1) Notwithstanding subdivision (a) of Section 8171, the provider shall submit the fingerprints and trustline application to his or her local child care resource and referral agency established pursuant to Article 2 (commencing with Section 8210) of Chapter 2 of Part 6 of the Education Code. The local child care resource and referral agency shall transmit the fingerprints and completed trustline applications to the Department of Justice, inform providers of their trustline status, and address any local problems that occur in the registration system. If a fee is charged by the local child care resource and referral agency that takes a provider's fingerprints, the provider shall be reimbursed for this charge by the State Department of Education, through the local child care resource and referral agency, from federal Child Care and Development Block Grant funds to the extent that those funds are available.

(2) The Department of Justice shall adhere to the requirements of Section 8171 and of subdivisions (a), (e), (g), (h), and (i) of Section 8172. The Department of Justice shall also adhere to the requirements of subdivisions (b), (c), and (d) of Section 8172, except that instead of notifying providers as required in those subdivisions, it shall notify the California Child Care Resource and Referral Network.

(3) The California Child Care Resource and Referral Network shall notify the local child care resource and referral agencies of the status of the trustline applicants and registered trustline child care providers. The network shall maintain a toll-free telephone line to provide information to the local resource and referral agencies, the alternative payment programs, and the child care recipients of the status of providers.

(c) This chapter shall become operative only if funds appropriated for the purposes of this chapter from Item 6110-196-890 of Section 2 of the Budget Act of 1991 are incorporated into and approved as part of the state plan that is required pursuant to Section 658(E)(a) of the federal Child Care Block Grant Act of 1990 (Sec. 5082, P.L. 101-508).

SEC. 3. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

SEC. 4. Of the funds appropriated in Item 6110-196-890 of Section 2.00 of the Budget Act of 1991, the following amounts shall be allocated by the Superintendent of Public Instruction as follows:

(1) To the resource and referral agencies for the purposes of paragraph (1) of subdivision (b) of Section 8180, seventy-five thousand dollars ($75,000).

(2) To the Department of Justice for the purposes of paragraph (2) of subdivision (b) of Section 8180, three hundred seventy-seven thousand dollars ($377,000).

(3) To the California Child Care Resource and Referral Network for the purposes of paragraph (3) of subdivision (b) of Section 8180, one hundred twenty-two thousand dollars ($122,000).

SEC. 5. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to provide the widest range of protective services to children as soon as possible, it is necessary that this act take effect immediately.

CHAPTER 661

An act to amend and repeal Section 186.22 of the Penal Code, relating to crimes.

[Approved by Governor October 7, 1991. Filed with Secretary of State October 8, 1991.]

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

SECTION 1. Section 186.22 of the Penal Code, as amended by Chapter 930 of the Statutes of 1989, is amended to read:

186.22. (a) Any person who actively participates in any criminal street gang with knowledge that its members engage in or have engaged in a pattern of criminal gang activity, and who willfully promotes, furthers, or assists in any felonious criminal conduct by members of that gang, shall be punished by imprisonment in the county jail for a period not to exceed one year, or by imprisonment in the state prison for one, two, or three years.

(b) (1) Except as provided in paragraph (2), any person who is convicted of a felony which is committed for the benefit of, at the direction of, or in association with any criminal street gang, with the specific intent to promote, further, or assist in any criminal conduct by gang members, shall, upon conviction of that felony, in addition and consecutive to the punishment prescribed for the felony or attempted felony of which he or she has been convicted, be punished by an additional term of one, two, or three years at the court's discretion. However, if the underlying felony is committed on the grounds of, or within 1,000 feet of, a public or private elementary, vocational, junior high, or high school, during hours in which the facility is open for classes or school related programs or when minors are using the facility, the additional term shall be two, three, or four years, at the court's discretion. The court shall order the imposition of the middle term of the sentence enhancement, unless there are circumstances in aggravation or mitigation. The court shall state the reasons for its choice of sentence enhancements on the record at the time of the sentencing.

(2) Any person who violates this subdivision in the commission of a felony punishable by imprisonment in the state prison for life, shall not be paroled until a minimum of 15 calendar years have been served.

(c) Any person who is convicted of a public offense punishable as a felony or a misdemeanor, which is committed for the benefit of, at the direction of, or in association with, any criminal street gang, with the specific intent to promote, further, or assist in any criminal conduct by gang members, shall be punished by imprisonment in the county jail not to exceed one year, or by imprisonment in the state prison for one, two, or three years, provided that any person sentenced to imprisonment in the county jail shall be imprisoned for

a period not to exceed one year, but not less than 180 days, and shall not be eligible for release upon completion of sentence, parole, or any other basis, until he or she has served 180 days. If the court grants probation or suspends the execution of sentence imposed upon the defendant, it shall require as a condition thereof that the defendant serve 180 days in the county jail.

(d) Notwithstanding any other provision of law, the court may strike the additional punishment for the enhancements provided in this section or refuse to impose the minimum jail sentence for misdemeanors in an unusual case where the interests of justice would best be served, if the court specifies on the record and enters into the minutes the circumstances indicating that the interests of justice would best be served by that disposition.

(e) As used in this chapter, "pattern of criminal gang activity" means the commission, attempted commission, or solicitation of two or more of the following offenses, provided at least one of those offenses occurred after the effective date of this chapter and the last of those offenses occurred within three years after a prior offense, and the offenses are committed on separate occasions, or by two or more persons:

(1) Assault with a deadly weapon or by means of force likely to produce great bodily injury, as defined in Section 245.

(2) Robbery, as defined in Chapter 4 (commencing with Section 211) of Title 8 of Part 1.

(3) Unlawful homicide or manslaughter, as defined in Chapter 1 (commencing with Section 187) of Title 8 of Part 1.

(4) The sale, possession for sale, transportation, manufacture, offer for sale, or offer to manufacture controlled substances as defined in Sections 11054, 11055, 11056, 11057, and 11058 of the Health and Safety Code.

(5) Shooting at an inhabited dwelling or occupied motor vehicle, as defined in Section 246.

(6) Arson, as defined in Chapter 1 (commencing with Section 450) of Title 13.

(7) The intimidation of witnesses and victims, as defined in Section 136.1.

(8) Grand theft of any vehicle, trailer, or vessel as described in Section 487h.

(f) As used in this chapter, "criminal street gang" means any ongoing organization, association, or group of three or more persons, whether formal or informal, having as one of its primary activities the commission of one or more of the criminal acts enumerated in paragraphs (1) to (8), inclusive, of subdivision (e), which has a common name or common identifying sign or symbol, whose members individually or collectively engage in or have engaged in a pattern of criminal gang activity.

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

SEC. 2. Section 186.22 of the Penal Code, as added by Section 5.1 of Chapter 930 of the Statutes of 1989, is amended to read:

186.22. (a) Any person who actively participates in any criminal street gang with knowledge that its members engage in or have engaged in a pattern of criminal gang activity, and who willfully promotes, furthers, or assists in any felonious criminal conduct by members of that gang, shall be punished by imprisonment in the county jail for a period not to exceed one year, or by imprisonment in the state prison for one, two, or three years.

(b) (1) Except as provided in paragraph (2), any person who is convicted of a felony which is committed for the benefit of, at the direction of, or in association with any criminal street gang, with the specific intent to promote, further, or assist in any criminal conduct by gang members, shall, upon conviction of that felony, in addition and consecutive to the punishment prescribed for the felony or attempted felony of which he or she has been convicted, be punished by an additional term of one, two, or three years at the court's discretion. However, if the underlying felony is committed on the grounds of, or within 1,000 feet of, a public or private elementary, vocational, junior high, or high school, during hours in which the facility is open for classes or school related programs or when minors are using the facility, the additional term shall be two, three, or four years, at the court's discretion. The court shall order the imposition of the middle term of the sentence enhancement, unless there are circumstances in aggravation or mitigation. The court shall state the reasons for its choice of sentence enhancements on the record at the time of the sentencing.

(2) Any person who violates this subdivision in the commission of a felony punishable by imprisonment in the state prison for life, shall not be paroled until a minimum of 15 calendar years have been served.

(c) Any person who is convicted of a public offense punishable as a felony or a misdemeanor, which is committed for the benefit of, at the direction of, or in association with, any criminal street gang, with the specific intent to promote, further, or assist in any criminal conduct by gang members, shall be punished by imprisonment in the county jail not to exceed one year, or by imprisonment in the state prison for one, two, or three years, provided that any person sentenced to imprisonment in the county jail shall be imprisoned for a period not to exceed one year, but not less than 180 days, and shall not be eligible for release upon completion of sentence, parole, or any other basis, until he or she has served 180 days. If the court grants probation or suspends the execution of sentence imposed upon the defendant, it shall require as a condition thereof that the defendant serve 180 days in the county jail.

(d) Notwithstanding any other provision of law, the court may strike the additional punishment for the enhancements provided in this section or refuse to impose the minimum jail sentence for misdemeanors in an unusual case where the interests of justice would

best be served, if the court specifies on the record and enters into the minutes the circumstances indicating that the interests of justice would best be served by that disposition.

(e) As used in this chapter, "pattern of criminal gang activity" means the commission, attempted commission, or solicitation of two or more of the following offenses, provided at least one of those offenses occurred after the effective date of this chapter and the last of those offenses occurred within three years after a prior offense, and the offenses are committed on separate occasions, or by two or more persons:

(1) Assault with a deadly weapon or by means of force likely to produce great bodily injury, as defined in Section 245.

(2) Robbery, as defined in Chapter 4 (commencing with Section 211) of Title 8 of Part 1.

(3) Unlawful homicide or manslaughter, as defined in Chapter 1 (commencing with Section 187) of Title 8 of Part 1.

(4) The sale, possession for sale, transportation, manufacture, offer for sale, or offer to manufacture controlled substances as defined in Sections 11054, 11055, 11056, 11057, and 11058 of the Health and Safety Code.

(5) Shooting at an inhabited dwelling or occupied motor vehicle, as defined in Section 246.

(6) Arson, as defined in Chapter 1 (commencing with Section 450) of Title 13.

(7) The intimidation of witnesses and victims, as defined in Section 136.1.

(f) As used in this chapter, "criminal street gang" means any ongoing organization, association, or group of three or more persons, whether formal or informal, having as one of its primary activities the commission of one or more of the criminal acts enumerated in paragraphs (1) to (7), inclusive, of subdivision (e), which has a common name or common identifying sign or symbol, whose members individually or collectively engage in or have engaged in a pattern of criminal gang activity.

(g) This section shall become operative on January 1, 1993.

(h) This section shall remain in effect only until January 1, 1997, and on that date is repealed, unless a later enacted statute which is enacted before January 1, 1997, deletes or extends that date.

CHAPTER 662

An act to add Section 14670.55 to the Government Code, and to amend Section 7501 of the Welfare and Institutions Code, relating to state property, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 7, 1991. Filed with Secretary of State October 9, 1991.]

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

SECTION 1. Section 14670.55 is added to the Government Code, to read:

14670.55. The Director of General Services, with the approval of the State Public Works Board, may, based on current market value and upon any terms and conditions, and with reservations and exceptions, that in the director's opinion may be in the best interest of the state, do both of the following:

(a) Acquire the privately held inholding at 1114 P Street, in the City of Sacramento.

(b) Sell another property within that block or another property within the area of the Capitol Area Development Plan.

Not less than 15 days prior to taking the actions specified in this section, the director shall notify the Chairperson of the Joint Legislative Budget Committee of the director's intended actions, or not sooner than any lesser time that the chairperson, or his or her designee, may in each case determine. This notification shall include a statement on whether the state shall receive fair market value for the sale of its property or, in the event the director determines it is in the best interest of the state to receive less than fair market value, the reasons supporting that belief.

SEC. 2. Section 7501 of the Welfare and Institutions Code is amended to read:

7501. (a) The Department of General Services, in cooperation with the State Department of Developmental Services and the State Department of Mental Health, may sell or lease property within the boundaries of Camarillo State Hospital described in subdivision (b) to Ventura County which shall sublet the property to a nonprofit organization for the purpose of constructing and operating a children's crisis care center to provide an alternative to emergency shelter home placement. The facility shall provide for an interagency program for the delivery of medical, educational, and mental health screening, crisis intervention, short-term mental health treatment, and case management services for children who are removed from their families due to abuse, neglect, abandonment, sexual molestation, or who are in acute mental health crisis requiring short-term nonhospital care and supervision described in subdivision (c).

(b) (1) The property is a 22.8 acre portion of Rancho Guadalasca, in the County of Ventura, State of California, as described in the Letters of Patent dated September 1, 1873, recorded in Book 1, Page 153 of Patents, in the office of the County Recorder of the county and described as follows:

Beginning at the northwesterly terminus of the Fourth Course of that parcel described in the deed recorded on June 9, 1932, in Book 358, Page 371 of Official Records, in said Recorder's Office; thence, along said Fourth Course,

1st — South 47°23'33" East 1150.00 feet to the northeasterly terminus of the 38th Course of Parcel 1 described in the deed recorded on April 17, 1973, in Book 4101, Page 237 of said Official Records; thence, along said 38th Course,

2nd— South 42°37'00" West 1026.00 feet; thence, parallel with the First Course herein,

3rd — North 47°23'33" West 800.00 feet; thence, parallel with the Second Course herein,

4th — North 42°37'00" East 666.00 feet; thence, parallel with the First Course herein,

5th — North 47°23'33" West 350.00 feet to the intersection with the Third Course of said parcel described in the deed recorded in Book 358, Page 371 of said Official Records; thence, along said Third Course,

6th — North 42°37'00" East 360.00 feet to the point of beginning.

(2) Notwithstanding any other provision of this section, if the parcel described in this subdivision is purchased or leased from the state, 50 percent of the proceeds shall accrue to the State Department of Mental Health and 50 percent to the Department of Developmental Services.

(3) The Department of General Services may enter into a sale or lease at less than fair market value. The department is authorized to lease the parcel for not less than 40, but not more than 99 years.

(c) Any of the following children are eligible for placement in the children's crisis care center:

(1) Any child who has been placed in protective custody and legally detained under Section 300 as a victim of abuse, neglect, or abandonment. The child shall be one day through 17 years of age. An infant born suffering from the result of perinatal substance abuse, or an infant who requires shelter care because of physical abuse resulting in a cast on the arm or leg shall also be eligible.

(2) Any dependent minor of the juvenile court whose placement has been disrupted, and who is in need of temporary placement, as well as crisis intervention and assessment services.

(3) Any voluntarily placed emotionally disturbed child in crisis as determined appropriate by the mental health case manager. The purpose of this placement is to deescalate the crisis, provide assessment and diagnostic services for a recommendation of appropriate treatment and ongoing placement, and to reduce the utilization of private or state psychiatric hospitalization.

(4) Any eligible child who is a resident of any county in California, subject to the availability of space.

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

If the property transactions provided for in this act are not completed as soon as possible, the result will be (a) the construction of a building harmful to the state's interest, and (b) lack of a badly needed children's care facility, and, thus it is necessary that this act go into immediate effect.

CHAPTER 663

An act to amend Sections 1703, 1726, and 1736 of, and to add Section 1707 to, the Water Code, relating to water.

[Approved by Governor October 7, 1991 Filed with Secretary of State October 9, 1991.]

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

SECTION 1. Section 1703 of the Water Code is amended to read:

1703. After filing a petition for permission to make a change, the petitioner, in case the board so requires, shall cause notice thereof to be given or published in the manner prescribed by the board. In all cases the petitioner shall notify the Department of Fish and Game in writing of the proposed change.

SEC. 2. Section 1707 is added to the Water Code, to read:

1707. (a) Any person entitled to the use of water, whether based upon an appropriative, riparian, or other right, may petition the board pursuant to this chapter, Chapter 6.6 (commencing with Section 1435) or Chapter 10.5 (commencing with Section 1725) for a change for purposes of preserving or enhancing wetlands habitat, fish and wildlife resources, or recreation in, or on, the water.

(b) The board may approve the petition filed pursuant to subdivision (a), subject to any terms and conditions which, in the board's judgment, will best develop, conserve, and utilize, in the public interest, the water proposed to be used as part of the change,

whether or not the proposed use involves a diversion of water, if the board determines that the proposed change meets all of the following requirements:

(1) Will not increase the amount of water the person is entitled to use.

(2) Will not unreasonably affect any legal user of water.

(3) Otherwise meets the requirements of this division.

SEC. 3. Section 1726 of the Water Code is amended to read:

1726. The permittee or licensee shall notify in writing the board and the Department of Fish and Game of a proposed temporary change. The notice shall contain information indicating the amount of water consumptively used by the permittee or licensee, the amount of water proposed for transfer, the parties involved in the transfer, and any other information the board by rule may prescribe.

SEC. 4. Section 1736 of the Water Code is amended to read:

1736. The board, after providing notice and opportunity for a hearing, including, but not limited to, written notice to, and an opportunity for review and recommendation by, the Department of Fish and Game, may approve such a petition for a long-term transfer where the change would not result in substantial injury to any legal user of water and would not unreasonably affect fish, wildlife, or other instream beneficial uses.

CHAPTER 664

An act to add Section 10082.5 to the Insurance Code, relating to insurance.

[Approved by Governor October 7, 1991 Filed with Secretary of State October 9, 1991]

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

SECTION 1. Section 10082.5 is added to the Insurance Code, to read:

10082.5. If an insurer subject to this chapter charges an additional earthquake insurance premium or deductible because a dwelling fails to comply with subdivision (a), (b), or (c) and the dwelling is subsequently brought into compliance with any one of these subdivisions, then the additional premium or deductible attributed to noncompliance shall not be charged.

(a) Compliance with the foundation anchor bolt requirements of subdivision (f) of Section 2907 of Chapter 29 of the 1991 edition of the Uniform Building Code of the International Conference of Building Officials, or with any local government modifications to those requirements.

(b) Compliance with the bracing requirements for cripple walls of paragraph (4) of subdivision (g) of Section 2517 of Chapter 25 of

the 1991 edition of the Uniform Building Code of the International Conference of Building Officials, and with any local government modifications to those requirements.

(c) Compliance with Section 19215 of the Health and Safety Code for the bracing, anchoring, or strapping all water heaters to resist falling or horizontal displacement due to earthquake motion.

A copy of the approved inspection record for the building permit for work performed pursuant to this section shall be submitted by the insured to the insurer in order to verify that retrofits performed pursuant to this section have been performed.

CHAPTER 665

An act to amend Sections 2081, 10083, 10086.1, and 10089 of the Insurance Code, relating to insurance, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 7, 1991. Filed with Secretary of State October 9, 1991]

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

SECTION 1. Section 2081 of the Insurance Code is amended to read:

2081. Whenever a clause is inserted, or rider attached, affecting the standard form liability of the insurer for loss or damage by fire occasioned either directly or indirectly by hurricane, volcanic action or other disturbance of nature, the clause or rider shall be printed in red ink in type larger than small pica and at the head of the policy there shall be printed in red ink and in large boldfaced type the words, "This policy contains limitations of liability not permitted in the California standard form."

Nothing in this section exempts an insurer from, or permits an insurer to limit, its liability or obligation under a fire insurance policy to cover the losses from a fire that is caused by, or follows, an earthquake.

SEC. 2. Section 10083 of the Insurance Code is amended to read:

10083. (a) The offer of coverage required by Section 10081 may be made prior to, concurrent with, or within 60 days following the issuance or renewal of a residential property insurance policy. If the offer of coverage is mailed to the named insured or applicant, it shall be mailed to the mailing address shown on the policy of residential property insurance or on the application. The offer of earthquake coverage shall contain the following language in at least 10-point bold type face:

YOUR POLICY DOES NOT PROVIDE COVERAGE AGAINST THE PERIL OF EARTHQUAKE.

CALIFORNIA LAW REQUIRES THAT EARTHQUAKE COVERAGE BE OFFERED TO YOU AT YOUR OPTION.

THE COVERAGE, SUBJECT TO POLICY PROVISIONS, MAY BE PURCHASED AT ADDITIONAL COST ON THE FOLLOWING TERMS:

(A) AMOUNT OF DWELLING COVERAGE: _____

(B) APPLICABLE DEDUCTIBLE: _____ IF YOUR LOSS IS BELOW THIS AMOUNT, YOU MAY NOT RECEIVE ANY PAYMENT FROM YOUR COVERAGE.

YOUR INSURANCE COMPANY OR AGENT WILL PROVIDE WRITTEN NOTICE AS TO HOW THE DEDUCTIBLE APPLIES TO THE MARKET VALUE OF YOUR COVERAGE, THE INSURED VALUE OF YOUR COVERAGE, OR THE REPLACEMENT VALUE OF YOUR COVERAGE.

(C) RATE OR PREMIUM: _____

YOU MUST ASK THE COMPANY TO ADD EARTHQUAKE COVERAGE WITHIN 30 DAYS FROM THE DATE OF MAILING OF THIS NOTICE OR IT SHALL BE CONCLUSIVELY PRESUMED THAT YOU HAVE NOT ACCEPTED THIS OFFER.

THIS COVERAGE SHALL BE EFFECTIVE ON THE DAY YOUR ACCEPTANCE OF THIS OFFER IS RECEIVED BY US.

(b) The offer may contain additional provisions not in conflict with or in derogation of the foregoing.

(c) Use of the language prescribed by this section shall constitute compliance with the requirements of Section 10081 by an insurer subject thereto.

SEC. 3. Section 10086.1 of the Insurance Code is amended to read:

10086.1. Where the offer of earthquake coverage has not been accepted, the insurer shall notify the named insured that the policy does not provide that coverage. After the offer on an every other year basis, the notice of noncoverage shall be provided prior to or concurrent with the renewal of the policy of residential property insurance. This section shall not affect any other provisions of this chapter nor shall it affect coverage under the policy of residential property insurance.

SEC. 4. Section 10089 of the Insurance Code is amended to read:

10089. (a) At a minimum, any offer of coverage of loss or damage caused by the peril of earthquake pursuant to Section 10081 shall include the following coverages: (1) dwelling; (2) personal property; and (3) additional living expenses of an amount no less than one thousand five hundred dollars ($1,500) to cover expenses while the residential dwelling remains uninhabitable due to physical loss or damage from the peril of earthquake.

(b) In the case of a residential dwelling which is not owner occupied, the minimum coverage for additional living expenses may be waived by the applicant or policyholder, provided the insurer

gives notice to the applicant or policyholder that coverage for additional living expenses is offered but may be waived, and the waiver is in writing.

SEC. 5. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to ensure that earthquake insurance in California continues to be provided by insurers in an efficient manner, it is necessary that this act take effect immediately.

CHAPTER 666

An act to add Section 49603 to the Education Code, relating to military recruiting.

[Approved by Governor October 7, 1991. Filed with Secretary of State October 9, 1991]

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

SECTION 1. It is the intent of the Legislature that military recruiters not be denied access to public high school campuses in order to share information on military careers with high school pupils. The Legislature finds and declares that this access is in furtherance of the First Amendment to the United States Constitution, which guarantees not only the right to speak freely, but also the right to receive information.

SEC. 2. Section 49603 is added to the Education Code, to read:

49603. (a) Each school district offering instruction in any of grades 9 to 12, inclusive, that provides on-campus access to employers, shall not prohibit access to the military services.

(b) "Military services," for purposes of this section, includes the United States Army, the United States Navy, the United States Air Force, the United States Marine Corps, the United States Coast Guard, or any reserve component of those federal forces, the National Guard, the State Military Reserve, and the active militia.

CHAPTER 667

An act relating to state property.

[Approved by Governor October 7, 1991. Filed with Secretary of State October 9, 1991.]

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

SECTION 1. The Department of General Services shall conduct a pilot program to study the management of long-term leases of state-owned property. The department shall identify three parcels in each of the following regions for evaluation for potential for long-term leases of as much as 99 years:

(a) San Francisco Bay area.

(b) Los Angeles.

(c) San Diego.

The department shall evaluate each parcel and report it's findings to the Legislature on the potential for revenue to the state from the leases on the property. It is the intent of the Legislature that if the leases are entered into pursuant to future statutory authorization, the revenue derived from the leases, upon appropriation by the Legislature, shall be utilized by the department to have an inventory conducted of the value of all state-owned property that is zoned for either commercial or residential use.

CHAPTER 668

An act to amend Section 66491 of the Government Code, relating to subdivisions.

[Approved by Governor October 7, 1991 Filed with Secretary of State October 9, 1991.]

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

SECTION 1. Section 66491 of the Government Code is amended to read:

66491. With respect to the soils report, a local ordinance may provide that:

(a) The preliminary soils report may be waived if the local agency determines that, due to the knowledge it has as to the soils qualities of the soils of the subdivision, no preliminary analysis is necessary.

(b) The preliminary soils report may be submitted to the city engineer or county engineer for review. The city engineer or county engineer may review the preliminary soils report and may require additional information or reject the report if it is found to be incomplete, inaccurate, or unsatisfactory.

(c) If the preliminary soils report indicates the presence of critically expansive soils or other soils problems which, if not corrected, would lead to structural defects, a soils investigation of each lot in the subdivision may be required.

(d) If the preliminary soils report indicates the presence of rocks or liquids containing deleterious chemicals which, if not corrected, could cause construction materials such as concrete, steel, and ductile or cast iron to corrode or deteriorate, a soils investigation of each potentially affected lot in the subdivision may be required.

(e) Any soils investigation required pursuant to this section shall be done by a civil engineer registered in this state, who shall recommend the corrective action which is likely to prevent structural damage to each structure proposed to be constructed in the area where the soils problem exists.

(f) The local agency may approve the subdivision or portion thereof where soils problems described in subdivision (c) or (d) exist if it determines that the recommended action is likely to prevent structural damage to each structure to be constructed, and as a condition to the issuance of any building permit may require that the approved recommended action be incorporated in the construction of each structure.

CHAPTER 669

An act to amend Sections 12033.1, 12033.2, 12033.3, 12033.4, 54972, 54973, 54974, and 54975 of, and to amend the heading of Chapter 11 (commencing with Section 54970) of Part 1 of Division 2 of Title 5 of, the Government Code, relating to appointment lists.

[Approved by Governor October 7, 1991. Filed with Secretary of State October 9, 1991.]

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

SECTION 1. Section 12033.1 of the Government Code is amended to read:

12033.1. (a) The Governor shall prepare and maintain an Open Central Registry of Appointive Offices, which shall be known as the State Appointments List, that shall be available to the general public as follows:

(1) In the offices of the Secretary of State in the Cities of Sacramento and Los Angeles.

(2) The State Library.

(3) As required by Section 14904, every library that has been designated a complete depository library, and in addition, every municipal or county public library that has been designated a selective depository library.

(4) Every county library where there is no designated depository

library in the county, as determined by the State Librarian.

(5) Every municipal library serving a population of 50,000 or greater that is not otherwise served, as determined by the State Librarian.

(b) Additional copies of the list may be provided, upon request, to academic or law libraries designated as selective depository libraries.

(c) The Governor shall, in cooperation with the Speaker of the Assembly and the Senate Rules Committee, pursuant to Section 1750.5, maintain the currency of the list, provide for updating it at least once per month, but more frequently if practicable or necessary, and ensure that appropriate documents pertaining to this updating are disseminated to each entity designated in subdivision (a), within five days thereafter. Except for appointment of Members of the Legislature, no appointment to any office contained in the list shall be made until at least 15 working days after the day on which a vacancy for that office has been posted in both lists located in the offices of the Secretary of State.

SEC. 2. Section 12033.2 of the Government Code is amended to read:

12033.2. The Governor shall make copies of all information on the State Appointments List and updated materials available to any organization or person for a reasonable fee not to exceed actual cost.

SEC. 3. Section 12033.3 of the Government Code is amended to read:

12033.3. The State Appointments List located throughout the state shall contain the following:

(a) A list of all boards and commissions to which the Governor, any member of the executive branch, or, the Governor, the Speaker of the Assembly, the President pro Tempore of the Senate, and the Senate Rules Committee make appointments.

(b) The names and addresses of all appointees, and the appointing power for each such office, the dates of their appointments, the nearest statutory or scheduled expiration date, or both, of all appointments except those which exist at the pleasure of the appointing power, and necessary qualifications, if any exist, for such offices.

SEC. 4. Section 12033.4 of the Government Code is amended to read:

12033.4. All new appointments shall be posted in the State Appointments List within 20 working days after they are made. All unscheduled vacancies shall be posted in the list within 20 working days after they occur. Whenever the appointing power receives notification that an appointee other than a Member of the Legislature will be unable to complete the appointment term, such information shall be posted as soon as practicable, but in no case longer than 20 working days after receipt of notification, in the list. All such pertinent information shall be disseminated to the lists located throughout the state, pursuant to Section 12033.1 of this

article.

SEC. 5. The heading of Chapter 11 (commencing with Section 54970) of Part 1 of Division 2 of Title 5 of the Government Code, is amended to read:

CHAPTER 11. LOCAL APPOINTMENTS LIST

SEC. 6. Section 54972 of the Government Code is amended to read:

54972. On or before December 31 of each year, each legislative body shall prepare an appointments list of all regular and ongoing boards, commissions, and committees which are appointed by the legislative body of the local agency. This list shall be known as the Local Appointments List. The list shall contain the following information:

(a) A list of all appointive terms which will expire during the next calendar year, with the name of the incumbent appointee, the date of appointment, the date the term expires, and the necessary qualifications for the position.

(b) A list of all boards, commissions, and committees whose members serve at the pleasure of the legislative body, and the necessary qualifications for each position.

SEC. 7. Section 54973 of the Government Code is amended to read:

54973. The Local Appointments List shall be made available to members of the public for a reasonable fee which shall not exceed actual cost. The legislative body shall designate the public library with the largest service population within its jurisdiction to receive a copy of the list.

SEC. 8. Section 54974 of the Government Code is amended to read:

54974. (a) Whenever an unscheduled vacancy occurs in any board, commission, or committee for which the legislative body has the appointing power, whether due to resignation, death, termination, or other causes, a special vacancy notice shall be posted in the office of the clerk of the local agency, the library designated pursuant to Section 54973, and in other places as directed by the legislative body, not earlier than 20 days before or not later than 20 days after the vacancy occurs. Final appointment to the board, commission, or committee shall not be made by the legislative body for at least 10 working days after the posting of the notice in the clerk's office.

(b) Notwithstanding subdivision (a), the legislative body may, if it finds that an emergency exists, fill the unscheduled vacancy immediately. A person appointed to fill the vacancy shall serve only on an acting basis until the final appointment is made pursuant to this section.

SEC. 9. Section 54975 of the Government Code is amended to read:

54975. The board of supervisors shall include in the Local Appointments List prepared pursuant to Section 54972 all appointments of public members and alternate public members made to the local agency formation commission pursuant to Sections 54780, 54781, 54782, 54782.5, and 54782.7.

Whenever an unscheduled vacancy occurs in a local agency formation commission, the board of supervisors shall cause a special vacancy notice to be posted as provided in Section 54974. Final appointment to fill the vacancy shall not be made by the appointing body for at least 10 working days after the posting of the notice.

SEC. 10. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 670

An act to amend Section 30103 of the Public Resources Code, and to amend Item 3760-101-565 of Section 2.00 of Chapter 118 of the Statutes of 1991, relating to coastal resources, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 7, 1991. Filed with Secretary of State October 9, 1991.]

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

SECTION 1. Section 30103 of the Public Resources Code is amended to read:

30103. (a) "Coastal zone" means that land and water area of the State of California from the Oregon border to the border of the Republic of Mexico, specified on the maps identified and set forth in Section 17 of that chapter of the Statutes of the 1975–76 Regular Session enacting this division, extending seaward to the state's outer limit of jurisdiction, including all offshore islands, and extending inland generally 1,000 yards from the mean high tide line of the sea. In significant coastal estuarine, habitat, and recreational areas it extends inland to the first major ridgeline paralleling the sea or five miles from the mean high tide line of the sea, whichever is less, and

in developed urban areas the zone generally extends inland less than 1,000 yards. The coastal zone does not include the area of jurisdiction of the San Francisco Bay Conservation and Development Commission, established pursuant to Title 7.2 (commencing with Section 66600) of the Government Code, nor any area contiguous thereto, including any river, stream, tributary, creek, or flood control or drainage channel flowing into such area.

(b) The commission shall, within 60 days after its first meeting, prepare and adopt a detailed map, on a scale of one inch equals 24,000 inches for the coastal zone and shall file a copy of the map with the county clerk of each coastal county. The purpose of this provision is to provide greater detail than is provided by the maps identified in Section 17 of that chapter of the Statutes of the 1975–76 Regular Session enacting this division. The commission may adjust the inland boundary of the coastal zone the minimum landward distance necessary up to a maximum of 100 yards except as otherwise provided in this subdivision, or the minimum distance seaward necessary up to a maximum of 200 yards, to avoid bisecting any single lot or parcel or to conform it to readily identifiable natural or manmade features. Where a landward adjustment is requested by the local government and agreed to by the property owner, the maximum distance shall be 200 yards.

SEC. 2. Item 3760-101-565 of Section 2.00 of Chapter 118 of the Statutes of 1991 is amended to read:

3760-101-565- For local assistance, State Coastal Conservancy, payable from the State Coastal Conservancy Fund of 1976 180,000

Schedule:

(b) 15.10.000.000--Public Access and Waterfronts 180,000

Provisions:

1. These funds are derived pursuant to Section 30823 of the Public Resources Code.

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

In order to eliminate the requirement for separate and duplicative planning documents for certain areas of the coastal zone and to provide additional funding for local assistance from the State Coastal Conservancy at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 671

An act to amend Section 18210 of the Financial Code, relating to financial institutions.

[Approved by Governor October 7, 1991. Filed with Secretary of State October 9, 1991.]

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

SECTION 1. Section 18210 of the Financial Code is amended to read:

18210. (a) Except as provided in Sections 18205.5 and 18209 and subject to subdivisions (b) and (d), an industrial loan company shall not make any loan or purchase or discount any note secured primarily by real property unless the loan or other obligation is repayable in substantially equal weekly, semimonthly, monthly, or quarterly installments during its term, which shall not exceed 30 years and 30 days from the date the loan or other obligation is made or acquired by the company. However, an industrial loan company may make loans secured by first trust deeds on real property containing single family, or one to four residential, units provided that the repayment period for each loan does not exceed 40 years and 30 days from the date the loan is made by the company. All loans with repayment periods in excess of 30 years and 30 days shall not exceed in the aggregate 5 percent of all outstanding loans and obligations of the company.

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

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

total assets.

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

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

CHAPTER 672

An act to add Chapter 4.7 (commencing with Section 50580) to Part 2 of Division 31 of the Health and Safety Code, relating to real property.

[Approved by Governor October 7, 1991 Filed with Secretary of State October 9, 1991]

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

SECTION 1. Chapter 4.7 (commencing with Section 50580) is added to Part 2 of Division 31 of the Health and Safety Code to read:

CHAPTER 4.7. TRANSITIONAL HOUSING PARTICIPANT MISCONDUCT

Article 1. General Provisions and Definitions

50580. This chapter shall be known and may be cited as the Transitional Housing Participant Misconduct Act.

50581. In enacting this chapter, it is the intent of the Legislature to prevent the recurrence of acts of substantial disruption or violence by participants in transitional housing programs against other such participants, program staff, or immediate neighbors of the participants.

50582. The following definitions shall govern the construction of this chapter:

(a) "Abuse" means intentionally or recklessly causing or attempting to cause bodily injury, or sexual assault or placing another person in reasonable apprehension of imminent serious bodily injury to himself, herself, or another, where the injured person is another participant, program operator's staff or a person residing within 100

feet of the program site.

(b) "Homeless person" means an individual or family who, prior to participation in a transitional housing program, either lacked a fixed, regular, and adequate nighttime residence or had a primary nighttime residence, that was one of the following:

(1) A supervised publicly or privately operated shelter designed to provide temporary living accommodations, including, but not limited to, welfare hotels, congregate shelters and transitional housing for the mentally ill.

(2) An institution that provides a temporary residence for individuals intended to be institutionalized.

(3) A public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings.

(c) "Participant" shall mean a homeless person under contract with a program operator to participate in a transitional housing program and to use a dwelling unit in the program site. For the purposes of naming a defendant under this part, or a person to be protected under this part, "participant" shall include a person living with a participant at the program site. The contract shall specifically include the transitional housing program rules and regulations, a statement of the program operator's right of control over and access to the program unit occupied by the participant, and a restatement of the requirements and procedures of this chapter.

(d) "Program misconduct" means any intentional violation of the transitional housing program rules and regulations which (1) substantially interferes with the orderly operation of the transitional housing program, and (2) relates to drunkenness on the program site, unlawful use or sale of controlled substances, theft, arson, or destruction of the property of the program operator, persons living within 100 feet of the program site, program employees, or other participants, or (3) relates to violence or threats of violence, and harassment of persons living within 100 feet of the program site, program employees, or of other participants.

(e) "Program operator" means a governmental agency, or private nonprofit corporation receiving any portion of its transitional housing program funds from a governmental agency, which is operating a transitional housing program. "Program operator" also includes any other manager or operator hired by a governmental agency or nonprofit corporation to operate its transitional housing program.

(f) "Program site" means the real property containing a dwelling unit, the use of which is granted to a participant, and other locations where program activities or services are carried out or provided, subject to the participant's compliance with the transitional housing program rules and regulations.

(g) "Transitional housing program" means any program which is designed to assist homeless persons in obtaining skills necessary for independent living in permanent housing and which has all of the following components:

(1) Comprehensive social service programs which include regular individualized case management services and which may include alcohol and drug abuse counseling, self-improvement education, employment and training assistance services, and independent living skills development.

(2) Use of a program unit as a temporary housing unit in a structured living environment which use is conditioned upon compliance with the transitional housing program rules and regulations.

(3) A rule or regulation which specifies an occupancy period of not less than 30 days, but not more than 24 months.

Article 2. Temporary Restraining Order and Injunction

50585. (a) The program operator may seek, on its own behalf or on behalf of other participants, project employees, or persons residing within 100 feet of the program site, a temporary restraining order and an injunction prohibiting abuse or program misconduct as provided in this chapter. A program operator may not seek a temporary restraining order, pursuant to this section, against a participant after the participant has been under contract with the program operator for at least six months or longer, except when an action is pending against the participant or a temporary restraining order is in effect and subject to further orders. Nothing in this section shall be construed to authorize a person residing within 100 feet of the program site to seek a temporary restraining order or injunction under this chapter.

(b) Upon filing a petition for an injunction under this chapter, the program operator may obtain a temporary restraining order in accordance with the provisions of this section. No temporary restraining order shall be issued without notice to the opposite party, unless it shall appear from the facts shown by the affidavit that great or irreparable harm would result to the program operator, a program participant, or an individual residing within 100 feet of the program site before the matter can be heard on notice. The program operator or the program operator's attorney shall state in an affidavit to the court (1) that within a reasonable time prior to the application for a temporary restraining order he or she informed the opposing party or his or her attorney at what time and where the application would be made, (2) that he or she in good faith attempted to so inform the opposing party and his or her attorney but was unable to so inform the opposing attorney or his or her party, specifying the efforts made to contact them, or (3) that for reasons specified he or she should not be required to inform the opposing party or his or her attorney.

A temporary restraining order may be granted upon an affidavit which, to the satisfaction of the court, shows reasonable proof of program misconduct or abuse by the participant, and that great or irreparable harm would result. A temporary restraining order granted under this section shall remain in effect, at the court's

discretion, for a period not to exceed five days, unless otherwise modified, extended, or terminated by the court.

(c) The matter shall be made returnable on an order requiring cause to be shown why the injunction should not be granted, not later than five days from the date of the order. When the matter comes up for hearing, the party who obtained the temporary restraining order shall be ready to proceed and shall have personally served upon the opposite party at least two days prior to the hearing, a copy of the petition, a copy of the temporary restraining order, if any, the notice of hearing, copies of all affidavits to be used in the application, and a copy of any points and authorities in support of the petition. If the party who obtained the temporary restraining order is not ready, or if he or she fails to serve a copy of his or her petition, affidavits, and points and authorities, as herein required, the court shall dissolve the temporary restraining order. The court may, upon the filing of an affidavit by the program operator or his or her attorney, that the participant could not be served on time, reissue any temporary restraining order previously issued pursuant to this section and dissolved by the court for failure to serve the participant. An order reissued under this section shall state on its face the new date of expiration of the order. No fees shall be charged for the reissuance of any order under this section. The participant shall be entitled to a continuance, provided that the request is made on or before the hearing date and the hearing shall be set for a date within 15 days of the application, unless the participant requests a later date. The court may extend, or modify and extend, any temporary restraining order until the date and time upon which the hearing is held. The participant may file a response which explains, excuses, justifies, or denies the alleged conduct. No fee shall be charged for the filing of a response. At the hearing, the judge shall receive any testimony or evidence that is relevant, and may make an independent inquiry. If the judge finds by clear and convincing evidence that program misconduct or abuse exists, an injunction shall issue prohibiting that conduct. An injunction issued pursuant to this section shall have a duration of not more than one year. At any time within the three months before the expiration of the injunction, the program operator may apply for renewal of the injunction by filing a new petition for an injunction under this section.

(d) In addition to orders restraining abuse, the court may, upon clear and convincing evidence of abuse, issue an order excluding the participant from the program site, or restraining the participant from coming within 200 feet of the program site, upon an affidavit which, to the satisfaction of the court, shows clear and convincing evidence of abuse of a project employee, another participant, or a person who resides within 100 feet of the program site, by the participant and that great or irreparable injury would result to one of these individuals if the order is not issued. An order excluding the participant from the program site may be included in the temporary restraining order only in an emergency where it is necessary to

protect another participant, a project employee, or an individual who lives within 100 feet of the project site from imminent serious bodily injury.

(e) Nothing in this chapter shall preclude either party from representation by private counsel or from appearing on his or her own behalf.

(f) The notice of hearing specified in subdivision (c) shall contain on its face the name and phone number of an office funded by the federal Legal Services Corporation which provides legal services to low income persons in the county in which the action is filed. The notice shall indicate that this number may be called for legal advice concerning the filing of a response to the petition.

(g) Nothing in this chapter shall preclude the program operator's right to utilize other existing civil remedies. An order issued under this section shall not affect the rights of anyone not named in the order.

50586. (a) The clerk shall transmit a copy of each temporary restraining order or injunction or modification or termination thereof, granted under this chapter, by the close of the business day on which the order was granted, to the law enforcement agencies having jurisdiction over the program site. Each law enforcement agency may make available information as to the existence and current status of these orders to law enforcement officers responding to the scene of reported abuse or program misconduct.

(b) Any willful disobedience of any temporary restraining order or injunction granted under this section shall be a misdemeanor pursuant to Section 166 of the Penal Code.

(c) If a participant is found in contempt of a court order issued pursuant to this section, the court may, in addition to any other punishment, modify the order to exclude the participant from the program site.

50587. If a participant has violated an order issued under Section 50585, the participant shall be considered to have failed to perform the conditions of the agreement under which the property is held as provided in subsection 3 of Section 1161 of the Code of Civil Procedure, which conditions cannot afterward be performed.

50588. The Judicial Council shall promulgate forms and related instructions to implement the procedures required by this chapter. The petition and response forms shall be simple and concise.

Article 3. Recovery of Dwelling Unit

50590. If, after hearing pursuant to this chapter, an order excluding the participant from the program site is issued, the program operator may, without further notice, take possession of the participant's dwelling unit on the program site. The program operator shall have the same rights to the dwelling unit as if it had been recovered after abandonment in accordance with Section 1951.3 of the Civil Code and without objection of the participant. If

other participants, including the defendant participant's family members, reside in the dwelling unit, the abandonment shall be deemed only to affect the rights of the individual or individuals against whom the order has issued.

50591. If the program operator takes possession of the property, pursuant to this article, the program operator shall give the subject participant a reasonable opportunity to remove the participant's property from his or her dwelling unit on the program site, and, thereafter, the program operator may consider the remaining subject participant's property to be abandoned property pursuant to Chapter 5 (commencing with Section 1980) of Part 4 of Division 3 of the Civil Code.

SEC. 2. This act shall become operative on July 1, 1992.

CHAPTER 673

An act to add Section 602.1 to the Penal Code, relating to trespass.

[Approved by Governor October 7, 1991 Filed with Secretary of State October 9, 1991]

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

SECTION 1. Section 602.1 is added to the Penal Code, to read:

602.1. (a) Any person who intentionally interferes with any lawful business or occupation carried on by the owner or agent of a business establishment open to the public, by obstructing or intimidating those attempting to carry on business, or their customers, and who refuses to leave the premises of the business establishment after being requested to leave by the owner or the owner's agent, or by a peace officer acting at the request of the owner or owner's agent, is guilty of a misdemeanor, punishable by imprisonment in a county jail for up to 90 days, or by a fine of up to four hundred dollars ($400), or by both that imprisonment and fine.

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

(1) Any person engaged in lawful labor union activities that are permitted to be carried out on the property by state or federal law.

(2) Any person on the premises who is engaging in activities protected by the California Constitution or the United States Constitution.

(c) Nothing in this section shall be deemed to supersede the application of any other law.

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

Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 674

An act to amend Sections 81009.5, 82024, 82053, 84211, 87102.8, and 89506 of the Government Code, relating to the Political Reform Act of 1974.

[Approved by Governor October 7, 1991. Filed with Secretary of State October 9, 1991]

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

SECTION 1. Section 81009.5 of the Government Code is amended to read:

81009.5. (a) Any local government agency which has enacted, enacts, amends, or repeals an ordinance or other provision of law affecting campaign contributions and expenditures shall file a copy of the action with the commission.

(b) Notwithstanding Section 81013, no local government agency shall enact any ordinance imposing filing requirements additional to or different from those set forth in Chapter 4 (commencing with Section 84100) for elections held in its jurisdiction unless the additional or different filing requirements apply only to the candidates seeking election in that jurisdiction, their controlled committees or committees formed or existing primarily to support or oppose their candidacies, and to committees formed or existing primarily to support or oppose a candidate or to support or oppose the qualification of, or passage of, a local ballot measure which is being voted on only in that jurisdiction, and to city or county general purpose committees active only in that city or county, respectively.

SEC. 2. Section 82024 of the Government Code is amended to read:

82024. "Elective state office" means the office of Governor, Lieutenant Governor, Attorney General, Insurance Commissioner, Controller, Secretary of State, Treasurer, Superintendent of Public Instruction, Member of the Legislature, and member of the State Board of Equalization.

SEC. 3. Section 82053 of the Government Code is amended to read:

82053. "Statewide elective office" means the office of Governor, Lieutenant Governor, Attorney General, Insurance Commissioner, Controller, Secretary of State, Treasurer, and Superintendent of Public Instruction.

SEC. 4. Section 84211 of the Government Code is amended to

read:

84211. Each campaign statement required by this article shall contain all of the following information:

(a) The total amount of contributions received during the period covered by the campaign statement and the total cumulative amount of contributions received.

(b) The total amount of expenditures made during the period covered by the campaign statement and the total cumulative amount of expenditures made.

(c) The total amount of contributions received during the period covered by the campaign statement from persons who have given a cumulative amount of one hundred dollars ($100) or more.

(d) The total amount of contributions received during the period covered by the campaign statement from persons who have given a cumulative amount of less than one hundred dollars ($100).

(e) The balance of cash and cash equivalents on hand at the beginning and the end of the period covered by the campaign statement.

(f) If the cumulative amount of contributions (including loans) received from a person is one hundred dollars ($100) or more and a contribution or loan has been received from that person during the period covered by the campaign statement, all of the following:

(1) His or her full name.

(2) His or her street address.

(3) His or her occupation.

(4) The name of his or her employer, or if self-employed, the name of the business.

(5) The date and amount received for each contribution received during the period covered by the campaign statement and if the contribution is a loan, the interest rate for the loan.

(6) The cumulative amount of contributions.

(g) For each person, other than the filer, who is directly, indirectly, or contingently liable for repayment of a loan received during the period covered by the campaign statement, all of the following:

(1) His or her full name.

(2) His or her street address.

(3) His or her occupation.

(4) The name of his or her employer, or if self-employed, the name of the business.

(5) The amount of his or her maximum liability.

(h) The total amount of expenditures made during the period covered by the campaign statement to persons who have received one hundred dollars ($100) or more.

(i) The total amount of expenditures made during the period covered by the campaign statement to persons who have received less than one hundred dollars ($100).

(j) For each person to whom an expenditure of one hundred dollars ($100) or more has been made during the period covered by

the campaign statement, all of the following:

(1) His or her full name.

(2) His or her street address.

(3) The amount of each expenditure.

(4) A brief description of the consideration for which each expenditure was made.

(5) In the case of an expenditure which is a contribution, the date of the contribution; the cumulative amount of contributions made to a candidate, elected officer, or committee; the full name of the candidate; and the office and district for which he or she seeks nomination or election. In the case of a contribution in support of or opposition to a measure, the number or letter of the measure and the jurisdiction in which the measure or candidate is voted upon.

(6) The information required in paragraphs (1) to (4), inclusive, for each person, if different from the payee, who has provided consideration for an expenditure of one hundred dollars ($100) or more during the period covered by the campaign statement.

(7) In the case of an expenditure made to pay or reimburse the travel expenses or necessary accommodations of a candidate, his or her representative, or a member of the candidate's immediate family, the date, destination, and total expenditure for each trip.

For purposes of subdivisions (h), (i), and (j) only, the terms "expenditure" or "expenditures" mean any individual payment or accrued expense, unless it is clear from surrounding circumstances that a series of payments or accrued expenses are for a single service or product.

(k) In the case of a controlled committee, an official committee of a political party, or an organization formed or existing primarily for political purposes, the amount and source of any miscellaneous receipt.

(*l*) If a committee is listed pursuant to subdivision (f), (g), (j), (k), or (p), the number assigned to the committee by the Secretary of State shall be listed, or if no number has been assigned, the full name and street address of the treasurer of the committee.

(m) In a campaign statement filed by a committee supporting or opposing more than one candidate or measure, the amount of expenditures of one hundred dollars ($100) or more for or against each candidate or measure during the period covered by the campaign statement and the cumulative amount of expenditures of one hundred dollars ($100) or more for or against each such candidate or measure.

(n) In a campaign statement filed by a candidate who is a candidate in both an election held on the first Tuesday after the first Monday in June and an election held on the first Tuesday after the first Monday in November, his or her controlled committee, or a committee primarily formed to support or oppose such a candidate, the total amount of contributions received and the total amount of expenditures made for the period January 1 through June 30 and the total amount of contributions received and expenditures made for

the period July 1 through December 31.

(o) The full name, residential or business address, and telephone number of the filer, or in the case of a campaign statement filed by a committee defined by subdivision (a) of Section 82013, the name, street address, and telephone number of the committee and of the committee treasurer. In the case of a committee defined by subdivision (b) or (c) of Section 82013, the name that the filer uses on campaign statements shall be the name by which the filer is identified for other legal purposes or any name by which the filer is commonly known to the public.

(p) If the campaign statement is filed by a candidate, the name, street address, and treasurer of any committee of which he or she has knowledge which has received contributions or made expenditures on behalf of his or her candidacy and whether the committee is controlled by the candidate.

(q) A contribution need not be reported nor shall it be deemed accepted if it is not cashed, negotiated, or deposited and is returned to the contributor before the closing date of the campaign statement on which the contribution would otherwise be reported.

(r) If the campaign statement is filed in connection with the qualification of a measure, it shall contain the information required by paragraphs (1) to (4), inclusive, of subdivision (j) for each person who has directly, indirectly, or through an intermediary received payments cumulatively totaling one hundred dollars ($100) or more for circulation of petitions to qualify a measure for the ballot.

(s) If a committee primarily formed for the qualification or support of, or opposition to, an initiative or ballot measure is required to report an expenditure to a business entity pursuant to subdivision (j) and 50 percent or more of the business entity is owned by a candidate or person controlling the committee, by an officer or employee of the committee, or by a spouse of any of these individuals, the committee's campaign statement shall also contain, in addition to the information required by subdivision (j), that person's name, the relationship of that person to the committee, and a description of that person's ownership interest or position with the business entity.

(t) If a committee primarily formed for the qualification or support of, or opposition to, an initiative or ballot measure is required to report an expenditure to a business entity pursuant to subdivision (j), and a candidate or person controlling the committee, an officer or employee of the committee, or a spouse of any of these individuals is an officer, partner, consultant, or employee of the business entity, the committee's campaign statement shall also contain, in addition to the information required by subdivision (j), that person's name, the relationship of that person to the committee, and a description of that person's ownership interest or position with the business entity.

(u) The information required by Sections 84216 and 84216.5.

SEC. 5. Section 87102.8 of the Government Code is amended to

read:

87102.8. (a) No elected state officer, as defined in subdivision (f) of Section 14 of Article V of the California Constitution, shall make or participate in the making of, or use his or her official position to influence, any governmental decision before the agency in which the elected state officer serves, where he or she knows or has reason to know that he or she has a financial interest.

(b) An elected state officer knows or has reason to know that he or she has a financial interest in any action by, or a decision before the agency in which he or she serves where either of the following occur:

(1) The action or decision will have a direct and significant financial impact on a lobbyist employer from which the officer has received any salary, wages, commissions, or similar earned income within the preceding 12 months and the action or decision will not have an impact on the public generally or a significant segment of the public in a similar manner.

(2) The action or decision will have a direct and significant financial impact on any person, distinguishable from its impact on the public generally or a significant segment of the public, from whom the officer has received any compensation within the preceding 12 months for the purpose of appearing, agreeing to appear, or taking any other action on behalf of that person, before any local board or agency.

(c) The definitions of "public generally" and "significant segment of the public" contained in Section 87102.6 shall apply to this section.

(d) Notwithstanding Section 87102, the remedies provided in Chapter 3 (commencing with Section 83100) shall apply to violations of this section.

SEC. 6. Section 89506 of the Government Code is amended to read:

89506. (a) Payments, advances, or reimbursements, for travel, including actual transportation and related lodging and subsistence which is reasonably related to a legislative or governmental purpose, or to an issue of state, national, or international public policy, are not prohibited or limited by this chapter if either of the following apply:

(1) The travel is in connection with a speech given by the elected state officer, member of a state board or commission, or designated employee of a state agency, the lodging and subsistence expenses are limited to the day immediately preceding, the day of, and the day immediately following the speech, and the travel is within the United States.

(2) The travel is provided by a government, a governmental agency, a foreign government, a governmental authority, a bona fide public or private educational institution, as defined in Section 203 of the Revenue and Taxation Code, a nonprofit charitable or religious organization which is exempt from taxation under Section 501 (c) (3) of the Internal Revenue Code, or by a person domiciled outside the United States which substantially satisfies the requirements for

tax-exempt status under Section 501(c)(3) of the Internal Revenue Code.

(b) Gifts of travel not described in subdivision (a) are subject to the limits in Sections 89504 and 89505.

(c) Subdivision (a) applies only to travel which is reported on the recipient's statement of economic interests.

(d) For purposes of this section, a gift of travel does not include any of the following:

(1) Travel which is paid for from campaign funds, as permitted by Article 4 (commencing with Section 89510), or which is a contribution.

(2) Travel which is provided by the agency of an elected state officer, member of a state board or commission, or a designated employee.

(3) Travel which is reasonably necessary in connection with a bona fide business, trade, or profession and which satisfies the criteria for federal income tax deduction for business expenses in Sections 162 and 274 of the Internal Revenue Code, unless the sole or predominant activity of the business, trade, or profession is making speeches.

(4) Travel which is excluded from the definition of a gift by any other provision of this title.

SEC. 7. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

SEC. 8. The Legislature finds and declares that the provisions of this act further the purposes of both the Political Reform Act of 1974 within the meaning of subdivision (a) of Section 81012 of the Government Code and Proposition 103 within the meaning of Section 8 of the measure.

CHAPTER 675

An act to add Section 15453.10 to the Government Code, relating to health facilities, and making an appropriation therefor.

[Approved by Governor October 7, 1991. Filed with Secretary of State October 9, 1991.]

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

SECTION 1. Section 15453.10 is added to the Government Code, to read:

15453.10. Notwithstanding Sections 15453, 15453.5, 15453.6, 15453.7, 15453.8, and 15453.9, the total amount of bonds which may be outstanding at any one time is hereby increased by an amount not exceeding eight hundred seventy-five million dollars ($875,000,000). Bonds that are refunded pursuant to Section 15446 or for which moneys or securities in amounts necessary to pay or redeem the principal, interest, and any redemption premium thereon that have been deposited in trust shall not be deemed outstanding for the purposes of this section.

CHAPTER 676

An act to amend Section 16429.1 of the Government Code, relating to bond proceeds of local agencies.

[Approved by Governor October 7, 1991. Filed with Secretary of State October 9, 1991.]

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

SECTION 1. Section 16429.1 of the Government Code is amended to read:

16429.1. There is in the State Treasury the Local Agency Investment Fund, which fund is hereby created. Notwithstanding Section 13340, all money in the fund is hereby appropriated without regard to fiscal years to carry out the purpose of this section. The Controller shall maintain a separate account for each governmental unit having deposits in this fund.

Notwithstanding any other provisions of law, a local government official, with consent of the governing body of that agency, having money in its treasury not required for immediate needs, may remit the money to the Treasurer for deposit in the Local Agency Investment Fund for the purpose of investment.

Notwithstanding any other provisions of law, an officer of any nonprofit corporation whose membership is confined to public agencies or public officials, or an officer of a qualified

quasi-governmental agency, with the consent of the governing body of that agency, having money in its treasury not required for immediate needs, may remit the money to the Treasurer for deposit in the Local Agency Investment Fund for the purpose of investment.

Notwithstanding any other provision of law or of this section, a local agency may, with approval of its governing body, deposit in the Local Agency Investment Fund proceeds of the issuance of bonds, notes, certificates of participation, or other evidences of indebtedness of the local agency pending expenditure of the proceeds for the authorized purpose of their issuance. In connection with these deposits of proceeds, the Local Agency Investment Fund is authorized to receive and disburse moneys, and to provide information, directly with or to an authorized officer of a trustee or fiscal agent engaged by the local agency, the Local Agency Investment Fund is authorized to hold investments in the name and for the account of that trustee or fiscal agent, and the Controller shall maintain a separate account for each deposit of proceeds.

The local governmental unit , the nonprofit corporation, or the quasi-governmental agency has the exclusive determination of the length of time its money will be on deposit with the Treasurer.

The trustee or fiscal agent of the local governmental unit has the exclusive determination of the length of time proceeds from the issuance of bonds will be on deposit with the Treasurer.

The Local Investment Advisory Board shall determine those quasi-governmental agencies which qualify to participate in the Local Agency Investment Fund.

The Treasurer may refuse to accept deposits into the fund if, in the judgment of the Treasurer, the deposit would adversely affect the state's portfolio.

The Treasurer may invest the money of the fund in securities prescribed in Section 16430. The Treasurer may elect to have the money of the fund invested through the Surplus Money Investment Fund as provided in Article 4 (commencing with Section 16470) of Chapter 3 of Part 2 of Division 4 of Title 2.

Money in the fund shall be invested to achieve the objective of the fund which is to realize the maximum return consistent with safe and prudent treasury management.

All instruments of title of all investments of the fund shall remain in the Treasurer's vault or be held in safekeeping under control of the Treasurer in any federal reserve bank, or any branch thereof, or the Federal Home Loan Bank of San Francisco, with any trust company, or the trust department of any state or national bank.

Immediately at the conclusion of each calendar quarter, all interest earned and other increment derived from investments shall be distributed by the Controller to the contributing governmental units or trustees or fiscal agents, nonprofit corporations, and quasi-governmental agencies in amounts directly proportionate to the respective amounts deposited in the Local Agency Investment Fund and the length of time the amounts remained therein. An

amount equal to the reasonable costs incurred in carrying out the provisions of this section, not to exceed a maximum of one-quarter of 1 percent of the earnings of this fund, shall be deducted from the earnings prior to distribution. The amount of this deduction shall be credited as reimbursements to the state agencies having incurred costs in carrying out the provisions of this section.

The Treasurer shall prepare for distribution a monthly report of investments made during the preceding month.

CHAPTER 677

An act to amend Sections 7712, 8606, and 8614 of, to add Sections 8606.1 and 8780 to, and to repeal Sections 8612, 8613, 8664.9, 8664.12, and 8780 of, the Fish and Game Code, to repeal Section 15335.1 of the Government Code, and to repeal Sections 31125, 31125.5, 31125.6, 31126, and 31127 of the Public Resources Code, relating to commercial fishing, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 7, 1991 Filed with Secretary of State October 9, 1991]

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

SECTION 1. Section 7712 of the Fish and Game Code is amended to read:

7712. Where a fishery is closed or restricted due to the need to protect a fishery resource, marine mammals, or sea birds, or due to a conflict with other fisheries or uses of the marine environment, it shall be the policy of the department and the commission, consistent with budgetary and personnel considerations, to assist and foster the development of alternative fisheries or alternative fishing gear for those commercial fishermen affected by the restrictions, closures, or resource losses, including, but not limited to, the issuing of experimental gear permits pursuant to Section 8606 for alternative fishing methods or fishing gear consistent with the policies set forth in Section 1700.

SEC. 2. Section 8606 of the Fish and Game Code is amended to read:

8606. (a) The commission shall encourage the development of new types of commercial fishing gear and new methods of using existing commercial fishing gear by approving permits to be issued by the department, consistent with the policies set forth in Section 1700, for that development or use, subject to the following restrictions:

(1) A permit is subject to those conditions that the commission deems necessary to ensure the proper utilization and protection of the marine resources, and to minimize user group and resource

allocation conflicts.

(2) A permit is valid for a period of not more than one year, but may be renewed until the Legislature approves or disapproves the permanent use or type of gear pursuant to subdivision (c).

(3) A permit shall be revoked if the continued use would have an adverse impact on any resource, allocation of a resource, or other adverse impact to established fisheries.

(b) A permit may authorize the use of new types of commercial fishing gear and new methods of using existing gear otherwise prohibited by this code and may authorize that use or the use of existing gear in areas otherwise closed to that use by this code.

(c) The commission shall not authorize the issuance of experimental gear permits concerning the use of a gear type in an area, or portion of an area, for more than four consecutive years.

This subdivision applies to all experimental gear permits, whether issued prior to or after January 1, 1992.

(d) Commencing January 1, 1993, the commission shall not authorize the renewal of experimental gear permits originally issued prior to January 1, 1990, but, notwithstanding this subdivision and subdivision (c), may extend all experimental gear permits in existence on the effective date of the act that amended this section during the 1991 portion of the 1991–92 Regular Session of the Legislature to December 31, 1992, regardless of how many years they have been issued.

SEC. 2.1. Section 8606.1 is added to the Fish and Game Code, to read:

8606.1. (a) The Legislature finds and declares that the use of nearshore trawl nets was authorized through the experimental gear permit process and the alternative gear development program as a potential alternative to the use of gill and trammel nets in areas where the use of that gear type has been prohibited.

(b) The Legislature, in considering the needs of user groups, requires the use of nearshore trawl nets to be phased out effective January 1, 1993.

(c) The department shall issue 12 experimental gear permits authorizing the use of trawl nets in state waters during the period from May 1, 1992, through September 30, 1992. The 12 experimental gear permits shall be issued to those fishermen who hold experimental gear permits to use trawl nets in nearshore waters off central California during 1991.

(d) The terms and conditions of the 12 experimental gear permits to use trawl nets shall be the same as those approved by the Fish and Game Commission during 1991, except that fishing under authority of those permits authorized in waters between Waddell Creek (Santa Cruz County) and Indian Head Beach (Monterey County) shall be conducted in waters not less than 7½ fathoms in depth or within a one-mile radius of Point Santa Cruz (Santa Cruz County), and fishing under authority of permits authorized in waters between a line extending 253 degrees magnetic from Double Point (Marin

County) and a line extending 253 degrees magnetic from Point San Pedro (San Mateo County) shall be conducted in waters not less than one mile from shore.

SEC. 2.2. Section 8612 of the Fish and Game Code is repealed.

SEC. 2.3. Section 8613 of the Fish and Game Code is repealed.

SEC. 2.4. Section 8614 of the Fish and Game Code is amended to read:

8614. (a) If an experimental permit is revoked or not renewed, pursuant to a judgment, a decision of the commission, or a legislative enactment, and the permittee has an outstanding loan with the State Coastal Conservancy under Section 31125 of the Public Resources Code, as added by Chapter 910 of the Statutes of 1986, for the purchase of alternative fishing gear, the unpaid balance of the loan shall be excused from the date of revocation or nonrenewal of the permit, or from the date of any judgment, decision, or enactment which terminates the permit, if the permittee relinquishes the permit and returns the collateral fishing gear to the department, in which case the department shall take possession of the alternative fishing gear for the State Coastal Conservancy. Any alternative gear received by the department due to a revocation, nonrenewal, or termination of an experimental permit may be resold by the State Coastal Conservancy at fair market value to other experimental permit applicants or holders under this article. If the permittee chooses to keep the alternative gear and repay the loan, the rate of interest shall be reduced to 3 percent for the remaining balance of the loan.

(b) If the Legislature approves the permanent use or type of gear and the commercial fishing permit or the license for the permanent use or type of gear is revoked for a violation of the terms and conditions under which the fishery is conducted, the permittee shall be responsible for any remaining balance on any outstanding loan with the State Coastal Conservancy for the purchase of alternative fishing gear.

SEC. 3. Section 8664.9 of the Fish and Game Code is repealed.

SEC. 4. Section 8664.12 of the Fish and Game Code is repealed.

SEC. 4.3. Section 8780 of the Fish and Game Code, as amended by Section 3 of Chapter 172 of the Statutes of 1991, is repealed.

SEC. 4.5. Section 8780 is added to the Fish and Game Code, to read:

8780. (a) As used in this chapter, the term "bait net" means a lampara or round haul type net, the mesh of which is constructed of twine not exceeding Standard No. 9 medium cotton seine twine or synthetic twine of equivalent size or strength. The net shall not have rings along the lead line or any method of pursing the bottom of the net.

(b) Bait nets may be used to take fish for bait in Districts 6, 7, 8, 9, 10, 11, 12, 13, 16, 17, 18, 19, 19A, 19B, 20A, 21, 118, and 118.5.

(c) In District 19A, bait nets may be used only to take anchovies, queenfish, white croakers, sardines, squid, and smelt for bait only.

Bait nets may not be used within 750 feet of Seal Beach Pier or Belmont Pier.

(d) No other species of fish may be taken on any boat carrying a bait net in District 19A, except that loads or lots of fish may contain not more than 18 percent by weight of the fish, of other bait fish species taken incidentally to other fishing operations and which are mixed with other fish in the load or lot.

SEC. 5. Section 15335.1 of the Government Code is repealed.

SEC. 6. Section 31125 of the Public Resources Code is repealed.

SEC. 7. Section 31125.5 of the Public Resources Code is repealed.

SEC. 8. Section 31125.6 of the Public Resources Code is repealed.

SEC. 9. Section 31126 of the Public Resources Code is repealed.

SEC. 10. Section 31127 of the Public Resources Code is repealed.

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

In order to provide for the continued ability to investigate potentially viable alternative fishing gear from among a more comprehensive range of possibilities so as to protect and preserve the fisheries, marine mammals and seabirds, and the nearshore ecological community at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 678

An act to add Chapter 6.6 (commencing with Section 20790) to Part 3 of Division 5 of Title 2 of the Government Code, relating to the Public Employees' Retirement System.

[Approved by Governor October 7, 1991. Filed with Secretary of State October 9, 1991]

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

SECTION 1. Chapter 6.6 (commencing with Section 20790) is added to Part 3 of Division 5 of Title 2 of the Government Code, to read:

CHAPTER 6.6. PREPAYMENT OF CONTRIBUTIONS

20790. All or part of the employer's contribution required to be made to the system during any fiscal year may be made annually in advance of the due date thereof on an estimated basis pursuant to contractual agreement with the board. Any payments so made in advance on an estimated basis shall be adjusted at the end of the appropriate fiscal year to reflect the actual annual contribution required for that fiscal year. The payments to be so made in advance

may be discounted to their present value at a rate to be established by agreement with the board.

This section shall apply only to Riverside County as a two-year pilot project between July 1, 1992, and June 30, 1994.

20791. (a) The board shall prepare and submit a report to the Legislature on the implementation of this chapter on or before December 1, 1994.

(b) (1) The report shall contain an evaluation of the administrative and economic advantages of the annual prepaid contribution for the system, the pilot county, and all contracting public agencies, should this option be made available to them.

(2) The project shall be deemed successful if all of the following criteria are met:

(A) The discount of the annual employer contribution is sufficient to induce a public agency to forego its current method of payment.

(B) The board can demonstrate that prepayment of employer contributions does not have an adverse impact upon investment strategy or the rate of return on investments.

(C) Prepayment of employer contributions does not result in a substantial increase in administrative costs.

(3) The project shall be deemed unsuccessful if any of the criteria contained in paragraph (2) are not met, or if the board determines that implementation of the program on a systemwide basis is not feasible.

SEC. 2. The limitations imposed by Section 1 of this act are necessary because the Public Employees' Retirement System needs an opportunity to study the implementation of a system for the advanced payment of employer contribution without incurring the costs required to administer the system on a statewide basis. Therefore, a general law cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution.

CHAPTER 679

An act to add Section 10032 to the Business and Professions Code, relating to real estate.

[Approved by Governor October 7, 1991. Filed with Secretary of State October 9, 1991]

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

SECTION 1. Section 10032 is added to the Business and Professions Code, to read:

10032. (a) All obligations created under Section 10000, and following, all regulations issued by the commissioner relating to real estate salespersons, and all other obligations of brokers and real estate salespersons to members of the public shall apply regardless

of whether the real estate salesperson and the broker to whom he or she is licensed have characterized their relationship as one of "independent contractor" or of "employer and employee."

(b) A real estate broker and a real estate salesperson licensed under that broker may contract between themselves as independent contractors or as employer and employee, for purposes of their legal relationship with and obligations to each other. Characterization of a relationship as either "employer and employee" or "independent contractor" for statutory purposes, including, but not limited to, withholding taxes on wages and for purposes of unemployment compensation, shall be governed by Section 650 and Sections 13000 to 13054, inclusive, of the Unemployment Insurance Code. For purposes of workers compensation the characterization of the relationship shall be governed by Section 3200, and following, of the Labor Code.

SEC. 2. This act shall not be interpreted or applied to affect the obligation or ability, if any, of a broker to maintain workers compensation insurance, or the holding in Gibson v. Davis Realty Co. (1964) 215 Cal. App. 2d 190, that a real estate broker may be vicariously liable under the doctrine of respondeat superior for tortious acts of a salesperson licensed under the broker; and further, that real estate salespersons cannot be classified as independent contractors for purposes of liability to third parties and that any provision in a contract which purports to change that relationship from that of an agent to independent contractor is invalid as being contrary to law for purposes of tort liability to third parties.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 680

An act to add Sections 6830.1 and 6832 to the Harbors and Navigation Code, relating to river port commissions.

[Approved by Governor October 7, 1991. Filed with Secretary of State October 9, 1991]

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

SECTION 1. Section 6830.1 is added to the Harbors and Navigation Code, to read:

6830.1. (a) In addition to the commissioners appointed pursuant to Section 6830, the Sacramento-Yolo Port Commission shall have one commissioner appointed by the City Council of the City of West Sacramento and one commissioner appointed jointly by the Board of Supervisors of Sacramento County and the City Council of the City of Sacramento.

(b) On or before the end of each fiscal year, the City of West Sacramento shall pay to the Sacramento-Yolo Port District an amount which is equal to the costs incurred by the district on behalf of the commissioner appointed by the City of West Sacramento pursuant to this section.

(c) On or before the end of each fiscal year, Sacramento County and the City of Sacramento shall pay to the Sacramento-Yolo Port District an amount which is equal to the cost incurred by the district on behalf of the commissioner appointed jointly by Sacramento County and the City of Sacramento pursuant to this section. The county and city shall contribute an equal amount to the payment required by this subdivision.

SEC. 2. Section 6832 is added to the Harbors and Navigation Code, to read:

6832. Notwithstanding any other provision of law, the creation of any indebtedness by the Sacramento-Yolo Port District pursuant to this chapter shall require the prior authorization of a five-sevenths majority vote of the members of the port commission.

SEC. 3. The Legislature finds and declares that a special law is necessary and that a general law cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because of the unique circumstances of the Sacramento-Yolo Port District. The facts constituting the special circumstances are:

The jurisdictional boundary overlap and proximity of the Sacramento-Yolo Port District with the City of West Sacramento, together with the interrelationship of their financial resources, are unique in this state and a special act to provide representation of the city is therefore necessary.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because this act is in accordance with the request of a local agency or school

district which desired legislative authority to carry out the program specified in this act. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 681

An act to amend Section 5008 of, and to add Sections 5325.2, 5332, 5333, 5334, 5336, and 5337 to, the Welfare and Institutions Code, relating to mental health.

[Approved by Governor October 7, 1991 Filed with Secretary of State October 9, 1991.]

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

SECTION 1. Section 5008 of the Welfare and Institutions Code is amended to read:

5008. Unless the context otherwise requires, the following definitions shall govern the construction of this part:

(a) "Evaluation" consists of multidisciplinary professional analyses of a person's medical, psychological, educational, social, financial, and legal conditions as may appear to constitute a problem. Persons providing evaluation services shall be properly qualified professionals and may be full-time employees of an agency providing evaluation services or may be part-time employees or may be employed on a contractual basis.

(b) "Court-ordered evaluation" means an evaluation ordered by a superior court pursuant to Article 2 (commencing with Section 5200) or by a court pursuant to Article 3 (commencing with Section 5225) of Chapter 2.

(c) "Intensive treatment" consists of such hospital and other services as may be indicated. Intensive treatment shall be provided by properly qualified professionals and carried out in facilities qualifying for reimbursement under the California Medical Assistance Program (Medi-Cal) set forth in Chapter 7 (commencing with Section 14000) of Part 3 of Division 9, or under Title XVIII of the federal Social Security Act and regulations thereunder. Intensive treatment may be provided in hospitals of the United States government by properly qualified professionals. Nothing in this part shall be construed to prohibit an intensive treatment facility from also providing 72-hour treatment and evaluation.

(d) "Referral" is referral of persons by each agency or facility providing intensive treatment or evaluation services to other agencies or individuals. The purpose of referral shall be to provide for continuity of care, and may include, but need not be limited to, informing the person of available services, making appointments on

the person's behalf, discussing the person's problem with the agency or individual to which the person has been referred, appraising the outcome of referrals, and arranging for personal escort and transportation when necessary. Referral shall be considered complete when the agency or individual to whom the person has been referred accepts responsibility for providing the necessary services. All persons shall be advised of available precare services which prevent initial recourse to hospital treatment or aftercare services which support adjustment to community living following hospital treatment. These services may be provided through county welfare departments, State Department of Mental Health, Short-Doyle programs or other local agencies.

Each agency or facility providing evaluation services shall maintain a current and comprehensive file of all community services, both public and private. These files shall contain current agreements with agencies or individuals accepting referrals, as well as appraisals of the results of past referrals.

(e) "Crisis intervention" consists of an interview or series of interviews within a brief period of time, conducted by qualified professionals, and designed to alleviate personal or family situations which present a serious and imminent threat to the health or stability of the person or the family. The interview or interviews may be conducted in the home of the person or family, or on an inpatient or outpatient basis with such therapy, or other services, as may be appropriate. Crisis intervention may, as appropriate, include suicide prevention, psychiatric, welfare, psychological, legal, or other social services.

(f) "Prepetition screening" is a screening of all petitions for court-ordered evaluation as provided in Article 2 (commencing with Section 5200) of Chapter 2, consisting of a professional review of all petitions; an interview with the petitioner and, whenever possible, the person alleged, as a result of mental disorder, to be a danger to others, or to himself or herself, or to be gravely disabled, to assess the problem and explain the petition; when indicated, efforts to persuade the person to receive, on a voluntary basis, comprehensive evaluation, crisis intervention, referral, and other services specified in this part.

(g) "Conservatorship investigation" means investigation by an agency appointed or designated by the governing body of cases in which conservatorship is recommended pursuant to Chapter 3 (commencing with Section 5350).

(h) (1) For purposes of Article 1 (commencing with Section 5150), Article 2 (commencing with Section 5200), and Article 4 (commencing with Section 5250) of Chapter 2, and for the purposes of Chapter 3 (commencing with Section 5350), "gravely disabled" means either of the following:

(A) A condition in which a person, as a result of a mental disorder, is unable to provide for his or her basic personal needs for food, clothing, or shelter.

(B) A condition in which a person, has been found mentally incompetent under Section 1370 of the Penal Code and all of the following facts exist:

(i) The indictment or information pending against the defendant at the time of commitment charges a felony involving death, great bodily harm, or a serious threat to the physical well-being of another person.

(ii) The indictment or information has not been dismissed.

(iii) As a result of mental disorder, the person is unable to understand the nature and purpose of the proceedings taken against him or her and to assist counsel in the conduct of his or her defense in a rational manner.

(2) For purposes of Article 3 (commencing with Section 5225) and Article 4 (commencing with Section 5250), of Chapter 2, and for the purposes of Chapter 3 (commencing with Section 5350), "gravely disabled" means a condition in which a person, as a result of impairment by chronic alcoholism, is unable to provide for his or her basic personal needs for food, clothing, or shelter.

(3) The term "gravely disabled" does not include mentally retarded persons by reason of being mentally retarded alone.

(i) "Peace officer" means a duly sworn peace officer as that term is defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code who has completed the basic training course established by the Commission on Peace Officer Standards and Training, or any parole officer or probation officer specified in Section 830.5 of the Penal Code when acting in relation to cases for which he or she has a legally mandated responsibility.

(j) "Postcertification treatment" means an additional period of treatment pursuant to Article 6 (commencing with Section 5300) of Chapter 2.

(k) "Court," unless otherwise specified, means a court of record.

(*l*) "Antipsychotic medication" means any medication customarily prescribed for the treatment of symptoms of psychoses and other severe mental and emotional disorders.

(m) "Emergency" means a situation in which action to impose treatment over the person's objection is immediately necessary for the preservation of life or the prevention of serious bodily harm to the patient or others, and it is impracticable to first gain consent. It is not necessary for harm to take place or become unavoidable prior to treatment.

SEC. 2. Section 5325.2 is added to the Welfare and Institutions Code, to read:

5325.2. Any person who is subject to detention pursuant to Section 5150, 5250, 5260, or 5270.15 shall have the right to refuse treatment with antipsychotic medication subject to provisions set forth in this chapter.

SEC. 3. Section 5332 is added to the Welfare and Institutions Code, to read:

5332. (a) Antipsychotic medication, as defined in subdivision (*l*)

of Section 5008, may be administered to any person subject to detention pursuant to Section 5150, 5250, 5260, or 5270.15, if that person does not refuse that medication following disclosure of the right to refuse medication as well as information required to be given to persons pursuant to subdivision (c) of Section 5152 and subdivision (b) of Section 5213.

(b) If any person subject to detention pursuant to Section 5150, 5250, 5260, or 5270.15, and for whom antipsychotic medication has been prescribed, orally refuses or gives other indication of refusal of treatment with that medication, the medication shall only be administered when treatment staff have considered and determined that treatment alternatives to involuntary medication are unlikely to meet the needs of the patient, and upon a determination of that person's incapacity to refuse the treatment, in a hearing held for that purpose.

(c) Each hospital in conjunction with the hospital medical staff or any other treatment facility in conjunction with its clinical staff shall develop internal procedures for facilitating the filing of petitions for capacity hearings and other activities required pursuant to this chapter.

(d) In the case of an emergency, as defined in subdivision (m) of Section 5008, a person detained pursuant to Section 5150, 5250, 5260, or 5270.15 may be treated with antipsychotic medication over his or her objection prior to a capacity hearing, but only with antipsychotic medication that is required to treat the emergency condition, which shall be provided in the manner least restrictive to the personal liberty of the patient. It is not necessary for harm to take place or become unavoidable prior to intervention.

SEC. 4. Section 5333 is added to the Welfare and Institutions Code, to read:

5333. (a) Persons subject to capacity hearings pursuant to Section 5332 shall have a right to representation by an advocate or legal counsel. "Advocate," as used in this section, means a person who is providing mandated patients' rights advocacy services pursuant to Chapter 6.2 (commencing with Section 5500), and this chapter. If the Department of Mental Health provides training to patients' rights advocates, that training shall include issues specific to capacity hearings.

(b) Petitions for capacity hearings pursuant to Section 5332 shall be filed with the superior court. The director of the treatment facility or his or her designee shall personally deliver a copy of the notice of the filing of the petition for a capacity hearing to the person who is the subject of the petition.

(c) The mental health professional delivering the copy of the notice of the filing of the petition to the court for a capacity hearing shall, at the time of delivery, inform the person of his or her legal right to a capacity hearing, including the right to the assistance of the patients' rights advocate or an attorney to prepare for the hearing and to answer any questions or concerns.

(d) As soon after the filing of the petition for a capacity hearing is practicable, an attorney or a patients' rights advocate shall meet with the person to discuss the capacity hearing process and to assist the person in preparing for the capacity hearing and to answer questions or to otherwise assist the person, as is appropriate.

SEC. 5. Section 5334 is added to the Welfare and Institutions Code, to read:

5334. (a) Capacity hearings required by Section 5332 shall be heard within 24 hours of the filing of the petition whenever possible. However, if any party needs additional time to prepare for the hearing, the hearing shall be postponed for 24 hours. In case of hardship, hearings may also be postponed for an additional 24 hours, pursuant to local policy developed by the county mental health director and the presiding judge of the superior court regarding the scheduling of hearings. The policy developed pursuant to this subdivision shall specify procedures for the prompt filing and processing of petitions to ensure that the deadlines set forth in this section are met, and shall take into consideration the availability of advocates and the treatment needs of the patient. In no event shall hearings be held beyond 72 hours of the filing of the petition. The person who is the subject of the petition and his or her advocate or counsel shall receive a copy of the petition at the time it is filed.

(b) Capacity hearings shall be held in an appropriate location at the facility where the person is receiving treatment, and shall be held in a manner compatible with, and the least disruptive of, the treatment being provided to the person.

(c) Capacity hearings shall be conducted by a superior court judge, a court-appointed commissioner or referee, or a court-appointed hearing officer. All commissioners, referees, and hearing officers shall be appointed by the superior court from a list of attorneys unanimously approved by a panel composed of the local mental health director, the county public defender, and the county counsel or district attorney designated by the county board of supervisors. No employee of the county mental health program or of any facility designated by the county and approved by the department as a facility for 72-hour treatment and evaluation may serve as a hearing officer. All hearing officers shall receive training in the issues specific to capacity hearings.

(d) The person who is the subject of the capacity hearing shall be given oral notification of the determination at the conclusion of the capacity hearing. As soon thereafter as is practicable, the person, his or her counsel or advocate, and the director of the facility where the person is receiving treatment shall be provided with written notification of the capacity determination, which shall include a statement of the evidence relied upon and the reasons for the determination. A copy of the determination shall be submitted to the superior court.

(e) (1) The person who is the subject of the capacity hearing may appeal the determination to the superior court or the court of appeal.

(2) The person who has filed the original petition for a capacity hearing may request the district attorney or county counsel in the county in which the person is receiving treatment to appeal the determination to the superior court or the court of appeal, on behalf of the state.

(3) Nothing shall prohibit treatment from being initiated pending appeal of a determination of incapacity pursuant to this section.

(4) Nothing in this section shall be construed to preclude the right of a person to bring a writ of habeas corpus pursuant to Section 5275, subject to the provisions of this chapter.

(f) All appeals to the superior court pursuant to this section shall be subject to de novo review.

SEC. 6. Section 5336 is added to the Welfare and Institutions Code, to read:

5336. Any determination of a person's incapacity to refuse treatment with antipsychotic medication made pursuant to Section 5334 shall remain in effect only for the duration of the detention period described in Section 5150 or 5250, or both, or until capacity has been restored according to standards developed pursuant to subdivision (c) of Section 5332, or by court determination, whichever is sooner.

SEC. 7. Section 5337 is added to the Welfare and Institutions Code, to read:

5337. Notwithstanding Section 5257, nothing shall prohibit the filing of a petition for post certification pursuant to Article 6 (commencing with Section 5300) for persons who have been determined to be a danger to others at a certification review hearing.

SEC. 8. The State Department of Mental Health shall request the Conference of Local Mental Health Directors to provide, in consultation with a statewide organization representing patients' rights advocates and other interested parties, information relative to the roles of patients' rights advocates and the numbers of advocates needed for adequate representation of persons subject to capacity hearings pursuant to this act and shall prepare a report to the Legislature summarizing this information on or before January 1, 1994.

SEC. 9. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 682

An act to add Section 35179.5 to the Water Code, relating to water districts.

[Approved by Governor October 7, 1991. Filed with Secretary of State October 9, 1991.]

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

SECTION 1. Section 35179.5 is added to the Water Code, to read:

35179.5. If a vacancy in the office of the director is filled by appointment, and the vacancy occurred on a date so that, under Section 1780 of the Government Code, there is required to be an election at the next general district election to fill the balance of the unexpired term, then, notwithstanding subdivision (d) of Section 1780 of the Government Code, the person elected shall serve for a full four-year term, if the terms of office of the directors would continue to be staggered at each subsequent general district election.

SEC. 2. The Legislature finds and declares that there are special circumstances unique to the Irvine Ranch Water District which make a special act necessary and that a general law cannot be made applicable within the meaning of subdivision (b) of Section 16 of Article IV of the California Constitution.

CHAPTER 683

An act to amend Section 2020 of the Welfare and Institutions Code, relating to youth.

[Approved by Governor October 7, 1991 Filed with Secretary of State October 9, 1991.]

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

SECTION 1. Section 2020 of the Welfare and Institutions Code is amended to read:

2020. (a) For purposes of administering this chapter and the allocation of bond proceeds, the department shall treat funding for the youth centers and youth shelters as separate programs and shall fund each separately.

(b) (1) Funding for youth shelters shall be awarded as follows:

(A) At least 70 percent to shelters for runaway youths.

(B) A maximum of 30 percent to shelters for abused and neglected children. Funds allocated for shelters for abused and neglected children shall be prioritized among no more than three counties of the 1st to 10th class, inclusive, as defined by Section 28020 of the Government Code. The criteria for selection of these counties

shall be given to applicants in the following order of priority:

(i) Counties with existing youth shelters, as defined in subdivision (f) of Section 4496.04 of the Penal Code, with demonstrated overcrowding problems.

(ii) Counties which have a demonstrated need for additional youth shelter beds and which have initiated planning and the permit process for construction of a new shelter.

(2) Any money that has been awarded to shelters for abused or neglected children pursuant to Section 2011, and has not been encumbered by July 1, 1992, shall be reallocated according to a supplemental process to be developed by the department. The department shall establish this reallocation process only when the unspent funds accumulated under this section equals five hundred thousand dollars ($500,000) or more. The department shall accept new applications pursuant to this process from all counties which have demonstrated a need for additional youth shelter beds for abused and neglected children, and which have initiated planning for construction of a new shelter.

(c) In addition to its advisory committee, the department shall seek the cooperation and advice of the Office of Criminal Justice Planning and other appropriate agencies in the administration of the youth shelter program.

CHAPTER 684

An act to amend Sections 318 and 332 of the Penal Code, relating to gaming.

[Approved by Governor October 7, 1991. Filed with Secretary of State October 9, 1991]

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

SECTION 1. (a) (1) The Legislature finds and declares that the card club industry in California is important to the economic well-being of this state, with over 300 clubs employing over 20,000 Californians while generating more than forty million dollars ($40,000,000) each year in vitally needed revenue for local governments.

(2) The Legislature further finds and declares that card cheating is a threat to the integrity and the financial health of California card clubs and that it is imperative that card cheats, when identified, are vigorously prosecuted.

(3) The Legislature further finds and declares that very few of the cases of card cheating brought to the attention of local law enforcement are prosecuted.

(b) It is the intent of the Legislature in adopting this act to facilitate the prosecution of those who violate Section 332 of the

Penal Code; to foster recognition that violations occur through the counterfeiting, misappropriation, and other misuse of poker chips, tokens, and markers; and to encourage local prosecutors to develop policies for the prosecution of these cases.

SEC. 2. Section 318 of the Penal Code is amended to read:

318. Whoever, through invitation or device, prevails upon any person to visit any room, building, or other places kept for the purpose of illegal gambling or prostitution, is guilty of a misdemeanor, and, upon conviction thereof, shall be confined in the county jail not exceeding six months, or fined not exceeding five hundred dollars ($500), or be punished by both that fine and imprisonment.

SEC. 3. Section 332 of the Penal Code is amended to read:

332. (a) Every person who by the game of "three card monte," so-called, or any other game, device, sleight of hand, pretensions to fortune telling, trick, or other means whatever, by use of cards or other implements or instruments, or while betting on sides or hands of any play or game, fraudulently obtains from another person money or property of any description, shall be punished as in case of larceny of property of like value.

(b) For the purposes of this section, "fraudulently obtains" includes, but is not limited to, cheating, including, for example, gaining an unfair advantage for any player in any game through a technique or device not sanctioned by the rules of the game.

(c) For the purposes of establishing the value of property under this section, poker chips, tokens, or markers have the monetary value assigned to them by the players in any game.

CHAPTER 685

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

[Approved by Governor October 7, 1991. Filed with Secretary of State October 9, 1991.]

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

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

1399.63. (a) Any carrier providing replacement coverage with respect to hospital, medical or surgical expense or service benefits within a period of 60 days from the date of discontinuance of a prior contract or policy providing such hospital, medical or surgical expense or service benefits shall immediately cover all employees and dependents who were validly covered under the previous contract or policy at the date of discontinuance and are within the

definitions of eligibility under the succeeding carrier's contract and who would otherwise be eligible for coverage under the succeeding carrier's contract, regardless of any provisions of the contract relating to active full-time employment or hospital confinement or pregnancy. However, with respect to employees or dependents who are totally disabled on the date of discontinuance of the prior carrier's contract or policy and entitled to an extension of benefits pursuant to subdivision (b) of Section 1399.62, or pursuant to subdivision (d) of Section 10128.2 of the Insurance Code, the succeeding carrier is not required to provide benefits for services or expenses directly related to any conditions which caused the total disability.

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

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

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

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

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

(e) For purposes of subdivision (a), a succeeding carrier's coverage shall not exclude any dependent child who was covered by

the previous carrier solely because the plan member does not provide the primary support for that dependent child.

(f) Except to the extent that benefits for the condition would have been reduced or excluded under the prior carrier's contract or policy, no provision in the succeeding carrier's contract, where an employee changes carriers due to a change in employment or other circumstances, that would operate to reduce or exclude benefits for the following congenital craniofacial anomalies: cleft lip and palate (as defined in ICD-9-CM Diagnosis Code 749, International Classification of Diseases, 9th Revision, Clinical Modification, Volume 1, Second Edition, September, 1980), acrocephalosyndactyly (as defined in ICD-9-CM Diagnosis Code 755.55, cranio only), and other congenital musculoskeletal anomalies (as defined in ICD-9-CM Diagnosis Code 756.0), on the basis that the condition giving rise to benefits preexisted the effective date of the succeeding carrier's contract, shall be applied to those employees and dependents validly covered under the prior carrier's contract or policy on the date the prior contract or policy terminated when payment or services had been commenced by the previous carrier. That succeeding coverage shall otherwise be subject to all other provisions of the contract between the insured and the succeeding carrier. Nothing in this subdivision shall be construed to limit or otherwise affect any obligation of a succeeding carrier to provide benefits for a condition not specified in this subdivision, where expressly or impliedly required by other provisions of this chapter; this subdivision is not intended to affect the construction of the language of any other provision of this chapter.

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

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

(b) Except as otherwise provided in subdivision (a), until an employee or dependent entitled to coverage under a succeeding

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

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

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

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

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

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

(f) The fraudulent failure or refusal of an employee or dependent to disclose a preexisting condition to the succeeding carrier shall not be ascribed to the entire group and shall not alleviate the duty of a succeeding carrier under subdivision (a) to immediately cover all employees and dependents who were validly covered under the previous policy on the date of discontinuance. Any denial of benefits on the basis of fraud shall be limited to the employee or dependent who committed the fraud.

(g) Except to the extent that benefits for the condition would have been reduced or excluded under the prior carrier's contract or policy, no provision in the succeeding carrier's contract, where an employee changes carriers due to a change in employment or other circumstances, that would operate to reduce or exclude benefits for

the following congenital craniofacial anomalies: cleft lip and palate (as defined in ICD-9-CM Diagnosis Code 749, International Classification of Diseases, 9th Revision, Clinical Modification, Volume 1, Second Edition, September, 1980), acrocephalosyndactyly (as defined in ICD-9-CM Diagnosis Code 755.55, cranio only), and other congenital musculoskeletal anomalies (as defined in ICD-9-CM Diagnosis Code 756.0), on the basis that the condition giving rise to benefits preexisted the effective date of the succeeding carrier's contract, shall be applied to those employees and dependents validly covered under the prior carrier's contract or policy on the date the prior contract or policy terminated when payment or services had been commenced by the previous carrier. That succeeding coverage shall otherwise be subject to all other provisions of the contract between the insured and the succeeding carrier.

CHAPTER 686

An act to add Article 5.4 (commencing with Section 769.80) to Chapter 1 of Part 2 of Division 1 of the Insurance Code, relating to insurance.

[Approved by Governor October 7, 1991 Filed with Secretary of State October 9, 1991.]

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

SECTION 1. Article 5.4 (commencing with Section 769.80) is added to Chapter 1 of Part 2 of Division 1 of the Insurance Code, to read:

Article 5.4. Managing General Agents

769.80. This act shall be known and may be cited as the Managing General Agents Act.

769.81. As used in this article:

(a) "Actuary" means a person who is a member in good standing of the American Academy of Actuaries, the Casualty Actuarial Society, or the Society of Actuaries, and is qualified to sign a statement of actuarial opinion on loss reserves.

(b) "Insurer" means any person, firm, association, or corporation duly licensed as an insurer and operating under a certificate of authority in this state.

(c) "Managing General Agent" (MGA) means any person, firm, association, partnership, or corporation who negotiates and binds ceding reinsurance contracts on behalf of an insurer or manages all or part of the insurance business of an insurer (including the management of a separate division, department or underwriting office) and acts as an agent for that insurer whether known as an

MGA, manager, or other similar term, who, with or without the authority, either separately or together with affiliates, produces, directly or indirectly, and underwrites an amount of gross direct written premium equal to or more than 5 percent of the policyholder surplus as reported in the last annual statement of the insurer in any one quarter or year together with one or more of the following: (1) adjusts or pays claims in excess of an amount determined by the commissioner, or (2) negotiates reinsurance on behalf of the insurer.

Notwithstanding the above, the following persons shall not be considered as MGAs for the purposes of this act:

(1) An employee of the insurer.

(2) A United States manager of the United States branch of an alien insurer.

(3) An underwriting manager which, pursuant to contract, manages the insurance operations of the insurer, is under common control with the insurer, subject to the holding company regulatory act, and whose compensation is not based on the volume of premiums written.

(4) The attorney-in-fact authorized by and acting for the subscribers of a reciprocal insurer or interinsurance exchange under powers of attorney.

(d) "Underwrite" means the authority to accept or reject risk on behalf of the insurer.

769.82. (a) No producer shall act in the capacity of an MGA with respect to risks located in this state for an insurer which holds a certificate of authority unless that producer is licensed as a fire and casualty broker-agent or as a life agent in this state.

(b) No producer shall act in the capacity of an MGA representing an insurer domiciled in this state with respect to risks located outside this state unless that producer is licensed as a fire and casualty broker-agent or as a life agent in this state.

(c) The commissioner may require a fidelity bond in an amount acceptable to him or her for the protection of the insurer.

(d) The commissioner may require the MGA to maintain an errors and omissions policy. If a policy is not generally available at a reasonable cost, the commissioner may, by rule, suspend the requirement of this subdivision until that coverage becomes generally available at a reasonable cost.

769.83. No producer acting in the capacity of an MGA shall place business with an insurer unless there is in force a written contract between the parties which sets forth the responsibilities of each party and where both parties share responsibility for a particular function, specifies the division of such responsibilities, and which contains the following minimum provisions:

(a) The insurer may terminate the contract for cause upon written notice to the MGA. The insurer may suspend the underwriting authority of the MGA during the pendency of any dispute regarding the cause for termination.

(b) The MGA shall render accounts to the insurer detailing all

transactions and remit all funds due under the contract to the insurer on not less than a monthly basis.

(c) All funds collected for the account of an insurer shall be held by the MGA in a fiduciary capacity in a bank which is a member of the Federal Reserve System. This account shall be used for all payments on behalf of the insurer. The MGA may retain no more than three months estimated claims payments and allocated loss adjustment expenses. The requirements of this subdivision shall be in addition to the requirements of Sections 1734 and 1735.

(d) Separate records of business written by the MGA shall be maintained. The insurer shall have access to and the right to copy all accounts and records related to its business in a form usable by the insurer and the commissioner shall have access to all books, bank accounts, and records of the MGA in a form usable to the commissioner. Those records shall be retained by the MGA, and shall be the joint property of the insurer and MGA.

(e) The contract may not be assigned in whole or part by the MGA.

(f) Appropriate underwriting guidelines including:

(1) The maximum annual premium volume.

(2) The basis of the rates to be charged.

(3) The types of risks which may be written.

(4) Maximum limits of liability.

(5) Applicable exclusions.

(6) Territorial limitations.

(7) Policy cancellation provisions.

(8) The maximum policy period.

The insurer shall have the right to cancel or nonrenew any policy of insurance, except as limited by any other provision of this code.

(g) If the contract permits the MGA to settle claims on behalf of the insurer:

(1) All claims shall be reported to the insurer in a timely manner.

(2) A copy of the claim file shall be sent to the insurer at its request or as soon as it becomes known that the claim is subject to any of the following:

(A) Has the potential to exceed an amount determined by the commissioner or exceeds the limit set by the company, whichever is less.

(B) Involves a coverage dispute.

(C) May exceed the MGA's claims settlement authority.

(D) Is open for more than six months.

(E) Is closed by payment of an amount set by the commissioner or an amount set by the insurer, whichever is less.

(3) All claim files shall be the joint property of the insurer and MGA. However, upon an order of liquidation of the insurer such files shall become the sole property of the insurer or its estate; the MGA shall have reasonable access to and the right to copy the files on a timely basis.

(4) Any settlement authority granted to the MGA may be

terminated for cause upon the insurer's written notice to the MGA or upon the termination of the contract. The insurer may suspend the settlement authority during the pendency of any dispute regarding the cause for termination.

(h) Where electronic claims files are in existence, the contract shall address the timely transmission of the data.

(i) If the contract provides for a sharing of interim profits by the MGA, and the MGA has the authority to determine the amount of the interim profits by establishing loss reserves or controlling claim payments, or in any other manner, interim profits will not be paid to the MGA until one year after they are earned for property insurance business and five years after they are earned on casualty business and not until the profits have been verified pursuant to Section 769.84.

(j) The MGA shall not do any of the following:

(1) Bind reinsurance or retrocessions on behalf of the insurer, except that the MGA may bind facultative reinsurance contracts pursuant to obligatory facultative agreements if the contract with the insurer contains reinsurance underwriting guidelines including, for both reinsurance assumed and ceded, a list of reinsurers with which such automatic agreements are in effect, the coverages and amounts or percentages that may be reinsured and commission schedules. This paragraph shall not operate to prohibit transactions which are subject to Chapter 6.5 (commencing with Section 1781.1) of Part 2 of Division 1, if the MGA has complied with all of the requirements of that chapter.

(2) Commit the insurer to participate in insurance or reinsurance syndicates.

(3) Appoint any agent without assuring that the agent is lawfully licensed to transact the type of insurance for which he or she is appointed.

(4) Without prior approval of the insurer, pay or commit the insurer to pay a claim over a specified amount, net of reinsurance, which shall not exceed 1 percent of the insurer's policyholder's surplus as of December 31 of the last completed calendar year.

(5) Collect any payment from a reinsurer or commit the insurer to any claim settlement with a reinsurer, without prior approval of the insurer. If prior approval is given, a report shall be promptly forwarded to the insurer.

(6) Permit any agent appointed pursuant to paragraph (3) to serve on the insurer's board of directors.

(7) Jointly employ an individual who is employed with the insurer.

(8) Appoint a sub-MGA.

769.84. (a) The insurer shall have on file an independent financial examination, in a form acceptable to the commissioner, of each MGA with which it has done business.

(b) If an MGA establishes loss reserves, the insurer shall annually obtain the opinion of an actuary attesting to the adequacy of loss

reserves established for losses incurred and outstanding on business produced by the MGA. This is in addition to any other required loss reserve certification.

(c) The insurer shall periodically (at least semiannually) conduct an onsite review of the underwriting and claims processing operations of the MGA.

(d) Binding authority for all reinsurance contracts or participation in insurance or reinsurance syndicates shall rest with an officer of the insurer, who shall not be affiliated with the MGA.

(e) Within 30 days of entering into or termination of a contract with an MGA, the insurer shall provide written notification of such appointment or termination to the commissioner. Notices of appointment of an MGA shall include a statement of duties which the applicant is expected to perform on behalf of the insurer, the lines of insurance for which the applicant is to be authorized to act, and any other information the commissioner may request.

(f) An insurer shall review its books and records each quarter to determine if any producer has become, by operation of Section 769.81, an MGA as defined in that section. If the insurer determines that a producer has become an MGA pursuant to the above, the insurer shall promptly notify the producer and the commissioner of that determination and the insurer and the producer shall fully comply with this article within 30 days.

(g) An insurer shall not appoint to its board of directors an officer, director, employee, any agent appointed pursuant to paragraph (3) of subdivision (j) of Section 769.83, or controlling shareholder of its MGAs. This subdivision shall not apply to relationships governed by Article 4.7 (commencing with Section 1215) of Chapter 2 of Part 2 of Division 1.

769.85. The acts of the MGA are considered to be the acts of the insurer on whose behalf it is acting. An MGA may be examined as if it were the insurer.

769.86. (a) If the commissioner finds after hearing that any person has violated any provision of this article he or she may order any of the following:

(1) For each separate violation, a penalty in an amount not to exceed twenty-five thousand dollars ($25,000).

(2) Revocation or suspension of the producer's license.

(b) Hearings held pursuant to subdivision (a) shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, except that the hearings shall be conducted by administrative law judges chosen under Section 11502 or appointed by the commissioner.

(c) The decision, determination, or order of the commissioner pursuant to subdivision (a) shall be subject to judicial review.

(d) Nothing contained in this section shall affect the right of the commissioner to impose any other penalties provided for in this code, nor limit any other authority required or authorized by this code to be exercised by the commissioner.

(e) Nothing contained in this article is intended to or shall in any manner limit or restrict the rights of policyholders, claimants, and auditors.

769.87. The commissioner may adopt reasonable rules and regulations for the implementation and administration of this article.

CHAPTER 687

An act to amend Section 1132 of the Welfare and Institutions Code, relating to crimes.

[Approved by Governor October 7, 1991. Filed with Secretary of State October 9, 1991.]

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

SECTION 1. Section 1152 of the Welfare and Institutions Code is amended to read:

1152. (a) Any person who without the use of force or violence willfully assists any parolee of the Department of the Youth Authority whose parole has been revoked, any escapee, any ward confined to a Department of the Youth Authority institution or facility, or who is being transported to or from that institution or facility, or any person in the lawful custody of any officer or person to escape or in an attempt to escape from a Department of the Youth Authority institution or facility, or custody, is guilty of a misdemeanor.

(b) Any person who with the use of force or violence willfully assists any parolee of the Department of the Youth Authority whose parole has been revoked, any escapee, any ward confined to a Department of the Youth Authority institution or facility, or who is being transported to or from that institution or facility, or any person in the lawful custody of any officer or person to escape or in an attempt to escape from a Department of the Youth Authority institution or facility, or custody, is punishable by imprisonment in the state prison for a term of 16 months, two, or three years or in the county jail for a term not exceeding one year.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 688

An act to amend Sections 10040, 10605.3, and 10605.4 of the Health and Safety Code, relating to vital statistics.

[Approved by Governor October 7, 1991. Filed with Secretary of State October 9, 1991.]

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

SECTION 1. Section 10040 of the Health and Safety Code is amended to read:

10040. (a) There is a State Vital Record Improvement Project Fund in the State Treasury. Not less than 10 percent of the moneys collected in the fund prior to or on December 31, 1992, less any fund reductions resulting from budget expropriations, shall, upon appropriation by the Legislature, be allocated by the State Registrar to local registrars to be utilized to improve and automate the processing of local vital record systems. Those allocations shall be based on the needs of local registrars to improve and automate record systems, as determined by the State Registrar, with emphasis on providing funds to those counties with insufficient Vital and Health Statistics Trust Fund revenue to support vital record automation.

(b) The remainder of the moneys in the fund not subject to local allocations pursuant to subdivision (a) shall, upon appropriation by the Legislature, be utilized by the State Registrar to improve and automate the processing of vital records maintained by the State Registrar.

SEC. 2. Section 10605.3 of the Health and Safety Code is amended to read:

10605.3. (a) Commencing January 1, 1992, in addition to the fees prescribed by subdivisions (a) to (d), inclusive, of Section 10605, all applicants for certified copies of the records described in those subdivisions shall pay an additional fee of two dollars ($2), which shall be collected by the State Registrar, the local registrar, county recorder, or county clerk, as the case may be.

(b) Except as provided in paragraph (2), the local public official charged with the collection of the additional fee established pursuant to subdivision (a) may create a Vital and Health Statistics Trust Fund. The fees collected by local public officials pursuant to subdivision (a) shall be distributed as follows:

(1) Commencing January 1, 1992, and ending December 31, 1992, one dollar ($1) of each two dollars ($2) collected shall be deposited with the State Registrar in the State Vital Record Improvement Project Fund established pursuant to Section 10040.

(2) Commencing January 1, 1993, ninety cents ($0.90) of each two dollars ($2) collected shall be deposited with the State Registrar in the Vital Record Improvement Project Fund established pursuant to

Section 10040.

(3) The remainder of each two dollars ($2) collected shall be deposited into the collecting agency's Vital and Health Statistics Trust Fund.

(4) Any local public official that does not establish a local Vital and Health Statistics Trust Fund shall forward the entire two dollars ($2) fee to the State Registrar, who shall deposit the fees into the Vital Record Improvement Project Fund established pursuant to Section 10040.

(5) Fees collected by the State Registrar shall be deposited into the Vital Record Improvement Project Fund established pursuant to Section 10040.

(c) Moneys in each Vital and Health Statistics Trust Fund shall be available to the public official charged with the collection of fees pursuant to this section to defray the administrative costs of collecting and reporting with respect to those fees and for the other costs, as follows:

(1) Modernization of vital record operations, including improvement, automation, and technical support of vital record systems.

(2) Improvement in the collection and analysis of health-related birth and death certificate information, and other community health data collection and analysis, as appropriate.

(d) Funds collected pursuant to this section shall not be used to supplant existing funding which is necessary for the daily operation of vital record systems. It is the intent of the Legislature that funds collected pursuant to this section be used to enhance service to the public, to improve analytical capabilities of state and local health authorities in addressing the health needs of newborn children, maternal health problems, and to analyze the health status of the general population.

(e) Each county shall annually submit a report to the State Registrar by March 1, containing information on the amount of revenues collected pursuant to this section for the previous calendar year and on how the revenues were expended and for what purpose.

(f) This section shall remain in effect only until January 1, 1997, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1997, deletes or extends that date.

(g) It is the intent of the Legislature that the Vital Record Improvement Project be completed by January 1, 1997, and that the one dollar ($1) surcharge used to fund this project be discontinued at that time.

SEC. 3. Section 10605.4 of the Health and Safety Code is amended to read:

10605.4. (a) In addition to the fees prescribed by subdivisions (a) to (d), inclusive, of Section 10605, any applicant for a certified copy of any records described in those subdivisions shall pay an additional fee of one dollar ($1) to the State Registrar. Each local registrar, county recorder, or county clerk collecting the additional fee

pursuant to this section shall transmit the entire fee to the State Registrar by the 10th day of the month following the month in which the fee was received.

(b) This section shall remain in effect only until January 1, 1997, and as of that date is repealed unless a later enacted statute which is enacted before January 1, 1997, deletes or extends that date.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for those costs because the local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act.

However, notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains other costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund.

Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 689

An act to amend and renumber Sections 9889.70, 9889.71, 9889.72, 9889.73, 9889.74, and 9889.75 of, to add Chapter 9 (commencing with Section 472) to Division 1 of, to repeal the heading of Chapter 20.5 (commencing with Section 9889.70) of Division 3 of, and to repeal Section 9889.76 of, the Business and Professions Code, and to amend Section 1793.2 of the Civil Code, relating to consumer warranties.

[Approved by Governor October 7, 1991. Filed with Secretary of State October 9, 1991.]

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

SECTION 1. Chapter 9 (commencing with Section 472) is added to Division 1 of the Business and Professions Code, to read:

CHAPTER 9. CERTIFICATION OF THIRD-PARTY DISPUTE RESOLUTION PROCESSES FOR NEW MOTOR VEHICLES

SEC. 2. The heading of Chapter 20.5 (commencing with Section 9889.70) of Division 3 of the Business and Professions Code is repealed.

SEC. 3. Section 9889.70 of the Business and Professions Code is

amended and renumbered to read:

472. Unless the context requires otherwise, the following definitions govern the construction of this chapter:

(a) "New motor vehicle" means a new motor vehicle as defined in subparagraph (B) of paragraph (4) of subdivision (e) of Section 1793.2 of the Civil Code.

(b) "Manufacturer" means a new motor vehicle manufacturer, manufacturer branch, distributor, or distributor branch required to be licensed pursuant to Article 1 (commencing with Section 11700) of Chapter 4 of Division 5 of the Vehicle Code.

(c) "Qualified third party dispute resolution process" means a third party dispute resolution process which operates in compliance with paragraph (3) of subdivision (e) of Section 1793.2 of the Civil Code and this chapter and which has been certified by the department pursuant to this chapter.

SEC. 4. Section 9889.71 of the Business and Professions Code is amended and renumbered to read:

472.1. The department shall establish a program for certifying each third-party dispute resolution process used for the arbitration of disputes pursuant to paragraph (2) of subdivision (e) of Section 1793.2 of the Civil Code. In establishing the program, the department shall do all of the following:

(a) Prescribe and provide forms to be used to apply for certification under this chapter.

(b) Establish a set of minimum standards which shall be used to determine whether a third-party dispute resolution process is in substantial compliance with paragraph (3) of subdivision (e) of Section 1793.2 of the Civil Code and this chapter.

(c) Prescribe the information which each manufacturer, or other entity, that operates a third-party dispute resolution process shall provide the department in the application for certification. In prescribing the information to accompany the application for certification, the department shall require the manufacturer, or other entity, to provide only that information which the department finds is reasonably necessary to enable the department to determine whether the third-party dispute resolution process is in substantial compliance with paragraph (3) of subdivision (e) of Section 1793.2 of the Civil Code and this chapter.

(d) Prescribe the information that each qualified third-party dispute resolution process shall provide the department, and the time intervals at which the information shall be required, to enable the department to determine whether the qualified third-party dispute resolution process continues to operate in substantial compliance with paragraph (3) of subdivision (e) of Section 1793.2 of the Civil Code and this chapter.

SEC. 5. Section 9889.72 of the Business and Professions Code is amended and renumbered to read:

472.2. (a) Each manufacturer may establish, or otherwise make available to buyers or lessees of new motor vehicles, a qualified

third-party dispute resolution process for the resolution of disputes pursuant to paragraph (2) of subdivision (e) of Section 1793.2 of the Civil Code. A manufacturer that itself operates the third-party dispute resolution process shall apply to the department for certification of that process. If the manufacturer makes the third-party dispute resolution process available to buyers or lessees of new motor vehicles through contract or other arrangement with another entity, that entity shall apply to the department for certification. An entity that operates a third-party dispute resolution process for more than one manufacturer shall make a separate application for certification for each manufacturer that uses that entity's third-party dispute resolution process. The application for certification shall be accompanied by the information prescribed by the department.

(b) The department shall review the application and accompanying information and, after conducting an onsite inspection, shall determine whether the third-party dispute resolution process is in substantial compliance with paragraph (3) of subdivision (e) of Section 1793.2 of the Civil Code and this chapter. If the department determines that the process is in substantial compliance, the department shall certify the process. If the department determines that the process is not in substantial compliance, the department shall deny certification and shall state, in writing, the reasons for denial and the modifications in the operation of the process that are required in order for the process to be certified.

(c) The department shall make a final determination whether to certify a third-party dispute resolution process or to deny certification not later than 90 calendar days following the date the department accepts the application for certification as complete.

SEC. 6. Section 9889.73 of the Business and Professions Code is amended and renumbered to read:

472.3. (a) The department, in accordance with the time intervals prescribed pursuant to subdivision (d) of Section 9889.71, but at least once annually, shall review the operation and performance of each qualified third-party dispute resolution process and determine, using the information provided the department as prescribed pursuant to subdivision (d) of Section 9889.71 and the monitoring and inspection information described in subdivision (c) of Section 9889.74, whether the process is operating in substantial compliance with paragraph (3) of subdivision (e) of Section 1793.2 of the Civil Code and this chapter. If the department determines that the process is in substantial compliance, the certification shall remain in effect.

(b) If the department determines that the process is not in substantial compliance with paragraph (3) of subdivision (e) of Section 1793.2 of the Civil Code or this chapter, the department shall issue a notice of decertification to the entity which operates the process and shall send a copy of that notice to any manufacturer

affected by the decertification. The notice of decertification shall state the reasons for the issuance of the notice and prescribe the modifications in the operation of the process that are required in order for the process to retain its certification.

(c) A notice of decertification shall take effect 180 calendar days following the date the notice is served on the manufacturer, or other entity, which uses the process that the department has determined is not in substantial compliance with paragraph (3) of subdivision (e) of Section 1793.2 of the Civil Code or this chapter. The department shall withdraw the notice of decertification prior to its effective date if the department determines, after a public hearing, that the manufacturer, or other entity, which uses the process has made the modifications in the operation of the process required in the notice of decertification and is in substantial compliance with paragraph (3) of subdivision (e) of Section 1793.2 of the Civil Code and this chapter.

SEC. 7. Section 9889.74 of the Business and Professions Code is amended and renumbered to read:

472.4. In addition to any other requirements of this chapter, the department shall do all of the following:

(a) Establish procedures to assist owners or lessees of new motor vehicles who have complaints regarding the operation of a qualified third-party dispute resolution process.

(b) Establish methods for measuring customer satisfaction and to identify violations of this chapter, which shall include an annual random postcard or telephone survey by the department of the customers of each qualified third-party dispute resolution process.

(c) Monitor and inspect, on a regular basis, qualified third-party dispute resolution processes to determine whether they continue to meet the standards for certification. Monitoring and inspection shall include, but not be limited to, all of the following:

(1) Onsite inspections of each qualified third-party dispute resolution process not less frequently than twice annually.

(2) Investigation of complaints from consumers regarding the operation of qualified third-party dispute resolution processes and analyses of representative samples of complaints against each process.

(3) Analyses of the annual surveys required by subdivision (b).

(d) Notify the Department of Motor Vehicles of the failure of a manufacturer to honor a decision of a qualified third-party dispute resolution process to enable the Department of Motor Vehicles to take appropriate enforcement action against the manufacturer pursuant to Section 11705.4 of the Vehicle Code.

(e) Submit a biennial report to the Legislature evaluating the effectiveness of this chapter, make available to the public summaries of the statistics and other information supplied by each qualified third party dispute resolution process, and publish educational materials regarding the purposes of this chapter.

(f) Adopt regulations as necessary and appropriate to implement this chapter and paragraph (3) of subdivision (e) of Section 1793.2

of the Civil Code.

SEC. 8. Section 9889.75 of the Business and Professions Code is amended and renumbered to read:

472.5. The New Motor Vehicle Board in the Department of Motor Vehicles shall, in accordance with the procedures prescribed in this section, administer the collection of fees for the purposes of fully funding the administration of this chapter.

(a) Fees collected pursuant to this section shall be deposited in the Certification Account in the Vehicle Inspection and Repair Fund and shall be available, upon appropriation by the Legislature, exclusively to pay the expenses incurred by the department in administering this chapter and to pay the New Motor Vehicle Board as provided in Section 3016 of the Vehicle Code. If at the conclusion of any fiscal year the amount of fees collected exceeds the amount of expenditures for that purpose during that fiscal year, the surplus in the Certification Account shall be carried over into the succeeding fiscal year.

(b) Beginning July 1, 1988, and on or before May 1 of each calendar year thereafter, every manufacturer shall file with the New Motor Vehicle Board a statement of the number of motor vehicles sold, leased, or otherwise distributed by or for the manufacturer in this state during the preceding calendar year, and shall, upon written notice delivered to the manufacturer by certified mail, return receipt requested, pay to the New Motor Vehicle Board a fee, not to exceed one dollar ($1) for each motor vehicle sold, leased, or distributed by or for the manufacturer in this state during the preceding calendar year. The total fee paid by each manufacturer shall be rounded to the nearest dollar in the manner described in Section 9559 of the Vehicle Code. Not more than one dollar ($1) shall be charged, collected, or received from any one or more manufacturers pursuant to this subdivision with respect to the same motor vehicle.

(c) (1) The fee required by subdivision (b) is due and payable not later than 30 days after the manufacturer has received notice of the amount due and is delinquent after that time. A penalty of 10 percent of the amount delinquent shall be added to that amount, if the delinquency continues for more than 30 days.

(2) If a manufacturer fails to file the statement required by subdivision (b) by the date specified, the New Motor Vehicle Board shall assess the amount due from the manufacturer by using as the number of motor vehicles sold, leased, or otherwise distributed by or for the manufacturer in this state during the preceding calendar year the total number of new registrations of all motor vehicles sold, leased, or otherwise distributed by or for the manufacturer during the preceding calendar year.

(d) On or before February 1 of each year, the department shall notify the New Motor Vehicle Board of the dollar amount necessary to fully fund the program established by this chapter during the following fiscal year. The New Motor Vehicle Board shall use this

information in calculating the amounts of the fees to be collected from manufacturers pursuant to this section.

(e) For purposes of this section, "motor vehicle" means a new passenger or commercial motor vehicle of a kind that is required to be registered under the Vehicle Code, but the term does not include a motorcycle, a motor home, or any vehicle whose gross weight exceeds 10,000 pounds.

(f) The New Motor Vehicle Board may adopt regulations to implement this section. The regulations shall include, at a minimum, a formula for calculating the fee, established pursuant to subdivision (b), for each motor vehicle and the total amount of fees to be collected from each manufacturer.

SEC. 9. Section 9889.76 of the Business and Professions Code is repealed.

SEC. 10. Section 1793.2 of the Civil Code is amended to read:

1793.2. (a) Every manufacturer of consumer goods sold in this state and for which the manufacturer has made an express warranty shall:

(1) (A) Maintain in this state sufficient service and repair facilities reasonably close to all areas where its consumer goods are sold to carry out the terms of those warranties or designate and authorize in this state as service and repair facilities independent repair or service facilities reasonably close to all areas where its consumer goods are sold to carry out the terms of the warranties.

(B) As a means of complying with this paragraph, a manufacturer may enter into warranty service contracts with independent service and repair facilities. The warranty service contracts may provide for a fixed schedule of rates to be charged for warranty service or warranty repair work. However, the rates fixed by those contracts shall be in conformity with the requirements of subdivision (c) of Section 1793.3. The rates established pursuant to subdivision (c) of Section 1793.3, between the manufacturer and the independent service and repair facility, shall not preclude a good faith discount which is reasonably related to reduced credit and general overhead cost factors arising from the manufacturer's payment of warranty charges direct to the independent service and repair facility. The warranty service contracts authorized by this paragraph shall not be executed to cover a period of time in excess of one year, and may be renewed only by a separate, new contract or letter of agreement between the manufacturer and the independent service and repair facility.

(2) In the event of a failure to comply with paragraph (1) of this subdivision, be subject to Section 1793.5.

(3) Make available to authorized service and repair facilities sufficient service literature and replacement parts to effect repairs during the express warranty period.

(b) Where those service and repair facilities are maintained in this state and service or repair of the goods is necessary because they do not conform with the applicable express warranties, service and

repair shall be commenced within a reasonable time by the manufacturer or its representative in this state. Unless the buyer agrees in writing to the contrary, the goods shall be serviced or repaired so as to conform to the applicable warranties within 30 days. Delay caused by conditions beyond the control of the manufacturer or his representatives shall serve to extend this 30-day requirement. Where delay arises, conforming goods shall be tendered as soon as possible following termination of the condition giving rise to the delay.

(c) The buyer shall deliver nonconforming goods to the manufacturer's service and repair facility within this state, unless, due to reasons of size and weight, or method of attachment, or method of installation, or nature of the nonconformity, delivery cannot reasonably be accomplished. If the buyer cannot return the nonconforming goods for any of these reasons, he or she shall notify the manufacturer or its nearest service and repair facility within the state. Written notice of nonconformity to the manufacturer or its service and repair facility shall constitute return of the goods for purposes of this section. Upon receipt of that notice of nonconformity, the manufacturer shall, at its option, service or repair the goods at the buyer's residence, or pick up the goods for service and repair, or arrange for transporting the goods to its service and repair facility. All reasonable costs of transporting the goods when a buyer cannot return them for any of the above reasons shall be at the manufacturer's expense. The reasonable costs of transporting nonconforming goods after delivery to the service and repair facility until return of the goods to the buyer shall be at the manufacturer's expense.

(d) (1) Except as provided in paragraph (2), if the manufacturer or its representative in this state does not service or repair the goods to conform to the applicable express warranties after a reasonable number of attempts, the manufacturer shall either replace the goods or reimburse the buyer in an amount equal to the purchase price paid by the buyer, less that amount directly attributable to use by the buyer prior to the discovery of the nonconformity.

(2) If the manufacturer or its representative in this state is unable to service or repair a new motor vehicle, as that term is defined in subparagraph (B) of paragraph (4) of subdivision (e), to conform to the applicable express warranties after a reasonable number of attempts, the manufacturer shall either promptly replace the new motor vehicle in accordance with subparagraph (A) or promptly make restitution to the buyer in accordance with subparagraph (B). However, the buyer shall be free to elect restitution in lieu of replacement, and in no event shall the buyer be required by the manufacturer to accept a replacement vehicle.

(A) In the case of replacement, the manufacturer shall replace the buyer's vehicle with a new motor vehicle substantially identical to the vehicle replaced. The replacement vehicle shall be accompanied by all express and implied warranties that normally

accompany new motor vehicles of that specific kind. The manufacturer also shall pay for, or to, the buyer the amount of any sales or use tax, license fees, registration fees, and other official fees which the buyer is obligated to pay in connection with the replacement, plus any incidental damages to which the buyer is entitled under Section 1794, including, but not limited to, reasonable repair, towing, and rental car costs actually incurred by the buyer.

(B) In the case of restitution, the manufacturer shall make restitution in an amount equal to the actual price paid or payable by the buyer, including any charges for transportation and manufacturer-installed options, but excluding nonmanufacturer items installed by a dealer or the buyer, and including any collateral charges such as sales tax, license fees, registration fees, and other official fees, plus any incidental damages to which the buyer is entitled under Section 1794, including, but not limited to, reasonable repair, towing, and rental car costs actually incurred by the buyer.

(C) When the manufacturer replaces the new motor vehicle pursuant to subparagraph (A), the buyer shall only be liable to pay the manufacturer an amount directly attributable to use by the buyer of the replaced vehicle prior to the time the buyer first delivered the vehicle to the manufacturer or distributor, or its authorized service and repair facility for correction of the problem that gave rise to the nonconformity. When restitution is made pursuant to subparagraph (B), the amount to be paid by the manufacturer to the buyer may be reduced by the manufacturer by that amount directly attributable to use by the buyer prior to the time the buyer first delivered the vehicle to the manufacturer or distributor, or its authorized service and repair facility for correction of the problem that gave rise to the nonconformity. The amount directly attributable to use by the buyer shall be determined by multiplying the actual price of the new motor vehicle paid or payable by the buyer, including any charges for transportation and manufacturer-installed options, by a fraction having as its denominator 120,000 and having as its numerator the number of miles traveled by the new motor vehicle prior to the time the buyer first delivered the vehicle to the manufacturer or distributor, or its authorized service and repair facility for correction of the problem that gave rise to the nonconformity. Nothing in this paragraph shall in any way limit the rights or remedies available to the buyer under any other law.

(e) (1) It shall be presumed that a reasonable number of attempts have been made to conform a new motor vehicle to the applicable express warranties if, within one year from delivery to the buyer or 12,000 miles on the odometer of the vehicle, whichever occurs first, either (A) the same nonconformity has been subject to repair four or more times by the manufacturer or its agents and the buyer has at least once directly notified the manufacturer of the need for the repair of the nonconformity or (B) the vehicle is out of service by reason of repair of nonconformities by the manufacturer

or its agents for a cumulative total of more than 30 calendar days since delivery of the vehicle to the buyer. The 30-day limit shall be extended only if repairs cannot be performed due to conditions beyond the control of the manufacturer or its agents. The buyer shall be required to directly notify the manufacturer pursuant to subparagraph (A) only if the manufacturer has clearly and conspicuously disclosed to the buyer, with the warranty or the owner's manual, the provisions of this subdivision and that of subdivision (d), including the requirement that the buyer must notify the manufacturer directly pursuant to subparagraph (A). This presumption shall be a rebuttable presumption affecting the burden of proof, and it may be asserted by the buyer in any civil action, including an action in small claims court, or other formal or informal proceeding.

(2) If a qualified third-party dispute resolution process exists, and the buyer receives timely notification in writing of the availability of that qualified third-party dispute resolution process with a description of its operation and effect, the presumption in paragraph (1) may not be asserted by the buyer until after the buyer has initially resorted to the qualified third-party dispute resolution process as required in paragraph (3). Notification of the availability of the qualified third-party dispute resolution process is not timely if the buyer suffers any prejudice resulting from any delay in giving the notification. If a qualified third-party dispute resolution process does not exist, or if the buyer is dissatisfied with that third-party decision, or if the manufacturer or its agent neglects to promptly fulfill the terms of the qualified third-party dispute resolution process decision after the decision is accepted by the buyer, the buyer may assert the presumption provided in paragraph (1) in an action to enforce the buyer's rights under subdivision (d). The findings and decision of a qualified third-party dispute resolution process shall be admissible in evidence in the action without further foundation. Any period of limitation of actions under any federal or California laws with respect to any person shall be extended for a period equal to the number of days between the date a complaint is filed with a third-party dispute resolution process and the date of its decision or the date before which the manufacturer or its agent is required by the decision to fulfill its terms if the decision is accepted by the buyer, whichever occurs later.

(3) A qualified third-party dispute resolution process shall be one that does all of the following:

(A) Complies with the minimum requirements of the Federal Trade Commission for informal dispute settlement procedures as set forth in Part 703 of Title 16 of the Code of Federal Regulations, as those regulations read on January 1, 1987.

(B) Renders decisions which are binding on the manufacturer if the buyer elects to accept the decision.

(C) Prescribes a reasonable time, not to exceed 30 days after the decision is accepted by the buyer, within which the manufacturer or

its agent must fulfill the terms of its decisions.

(D) Provides arbitrators who are assigned to decide disputes with copies of, and instruction in, the provisions of the Federal Trade Commission's regulations in Part 703 of Title 16 of the Code of Federal Regulations as those regulations read on January 1, 1987, Division 2 (commencing with Section 2101) of the Commercial Code, and this chapter.

(E) Requires the manufacturer, when the process orders, under the terms of this chapter, either that the nonconforming motor vehicle be replaced if the buyer consents to this remedy or that restitution be made to the buyer, to replace the motor vehicle or make restitution in accordance with paragraph (2) of subdivision (d).

(F) Provides, at the request of the arbitrator or a majority of the arbitration panel, for an inspection and written report on the condition of a nonconforming motor vehicle, at no cost to the buyer, by an automobile expert who is independent of the manufacturer.

(G) Takes into account, in rendering decisions, all legal and equitable factors, including, but not limited to, the written warranty, the rights and remedies conferred in regulations of the Federal Trade Commission contained in Part 703 of Title 16 of the Code of Federal Regulations as those regulations read on January 1, 1987, Division 2 (commencing with Section 2101) of the Commercial Code, this chapter, and any other equitable considerations appropriate in the circumstances. Nothing in this chapter requires that, to be certified as a qualified third-party dispute resolution process pursuant to this section, decisions of the process must consider or provide remedies in the form of awards of punitive damages or multiple damages, under subdivision (c) of Section 1794, or of attorney's fees under subdivision (d) of Section 1794, or of consequential damages other than as provided in subdivisions (a) and (b) of Section 1794, including, but not limited to, reasonable repair, towing, and rental car costs actually incurred by the buyer.

(H) Requires that no arbitrator deciding a dispute may be a party to the dispute and that no other person, including an employee, agent, or dealer for the manufacturer, may be allowed to participate substantively in the merits of any dispute with the arbitrator unless the buyer is allowed to participate also. Nothing in this paragraph prohibits any member of an arbitration board from deciding a dispute.

(I) Obtains and maintains certification by the Department of Consumer Affairs pursuant to Chapter 9 (commencing with Section 472) of Division 1 of the Business and Professions Code.

(4) For the purposes of subdivision (d) and this subdivision the following terms have the following meanings:

(A) "Nonconformity" means a nonconformity which substantially impairs the use, value, or safety of the new motor vehicle to the buyer or lessee.

(B) "New motor vehicle" means a new motor vehicle which is

used or bought for use primarily for personal, family, or household purposes. "New motor vehicle" includes the chassis, chassis cab, and that portion of a motor home devoted to its propulsion, but does not include any portion designed, used, or maintained primarily for human habitation, a dealer-owned vehicle and a "demonstrator" or other motor vehicle sold with a manufacturer's new car warranty but does not include a motorcycle or a motor vehicle which is not registered under the Vehicle Code because it is to be operated or used exclusively off the highways. A "demonstrator" is a vehicle assigned by a dealer for the purpose of demonstrating qualities and characteristics common to vehicles of the same or similar model and type.

(C) "Motorhome" means a vehicular unit built on, or permanently attached to, a self-propelled motor vehicle chassis, chassis cab, or van, which becomes an integral part of the completed vehicle, designed for human habitation for recreational or emergency occupancy.

(5) (A) Except as provided in subparagraph (B), no person shall sell, either at wholesale or retail, lease, or transfer a motor vehicle transferred by a buyer or lessee to a manufacturer pursuant to paragraph (2) of subdivision (d) or a similar statute of any other state, unless the nature of the nonconformity experienced by the original buyer or lessee is clearly and conspicuously disclosed to the prospective buyer, lessee, or transferee, the nonconformity is corrected, and the manufacturer warrants to the new buyer, lessee, or transferee in writing for a period of one year that the motor vehicle is free of that nonconformity.

(B) Except for the requirement that the nature of the nonconformity be disclosed to the transferee, subparagraph (A) does not apply to the transfer of a motor vehicle to an educational institution if the purpose of the transfer is to make the motor vehicle available for use in automotive repair courses.

CHAPTER 690

An act to amend Section 19599 of the Business and Professions Code, relating to horseracing, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 7, 1991. Filed with Secretary of State October 9, 1991.]

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

SECTION 1. Section 19599 of the Business and Professions Code is amended to read:

19599. (a) The board shall not approve any form of wagering on more than one race unless all such races are conducted on the same

racing program.

(b) Notwithstanding any other provision of law, each racing association or fair shall include the types of conventional and exotic wagers it proposes to offer on its application to conduct a horseracing meeting. An association or fair may offer any form of parimutuel wager as defined by regulations adopted by the board, or as defined by Chapter 9, Pari-Mutuel Wagering, Uniform Rules of Racing, as published by the Association of Racing Commissioners International. The board may prohibit any form of parimutuel wager if it determines that the proposed wager would compromise the honesty and integrity of racing in the state.

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

In order for the horseracing industry to respond more quickly to changing fan preferences for types of wagers and in order to realize additional state revenues from new types of wagers as soon as possible, it is necessary for this act to take effect immediately.

CHAPTER 691

An act to add and repeal Section 7040.1 of the Business and Professions Code, relating to contractors, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 7, 1991. Filed with Secretary of State October 9, 1991]

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

SECTION 1. Section 7040.1 is added to the Business and Professions Code, to read:

7040.1. (a) Notwithstanding any other provision of law, this chapter does not apply to nonprofit organizations providing weatherization services at no cost to households under federally funded low-income programs administered by the Department of Economic Opportunity. Such a nonprofit organization may, therefore, contract any activities covered by federally funded Department of Economic Opportunity programs to properly licensed contractors, subject to the condition that it contracts with a properly licensed contractor when an activity would disturb a hazardous material, or would constitute asbestos-related work as defined by Section 6501.8 of the Labor Code.

(b) This section shall only be in effect until January 1, 1996, and on that date is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1996, deletes or extends that date.

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

If this act does not take effect immediately, low-income weatherization services currently provided through the Department of Economic Opportunity programs may be terminated due to lack of compliance with Section 7040 of the Business and Professions Code which could result in disallowed costs to the state in the amount of between $10 million and $20 million as of June 30, 1991.

CHAPTER 692

An act relating to female prisoners.

[Approved by Governor October 7, 1991 Filed with Secretary of State October 9, 1991.]

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

SECTION 1. The Legislature finds and declares the following:

(a) The Department of Corrections estimates that the number of female prisoners will reach 10,250 in 1996. Although a significant number of these prisoners will be housed in new facilities, the department will continue to rely on the California Institution for Women (CIW) to house more female prisoners than its design capacity. CIW's designed bed capacity of 1,026 currently houses almost 2,000 female prisoners and has housed as many as 2,700. At present, most female prisoners who are experiencing serious medical problems are housed at the CIW.

(b) The female population presents medical issues that differ significantly from that of the male population.

(1) About 95 percent of the female prisoners are of childbearing age. In 1990, most of the 271 CIW prisoners gave birth. The medical history of these prisoners places them within the risk pregnancy category. Medical complications have been noted in 85 percent of all pregnancies at CIW.

(2) More than 80 percent of the new admissions of female prisoners from 1987 through 1989 had drug histories. Female felon new admissions are more likely to have a history of serious drug abuse than male felon new admissions.

(3) The number of identified HIV disease cases among female prisoners has grown from seven cases in March 1988 to 31 cases in August 1990. The department projects 121 active identified cases by 1996.

(4) The number of female prisoners over the age of 60 years has increased over the last five years.

These populations require greater health care services than the

general prison population, including services provided by a licensed health care facility.

(c) The CIW maintains and operates an institution-based health care facility that is not licensed by the State Department of Health Services, and is in need of physical repair and renovation.

(d) The licensure of the CIW health care facilities has been delayed pending publication of enabling regulations for the licensure category of the "Correctional Treatment Center." The enabling statute contains a sunset provision, effective January 1, 1993.

SEC. 2. (a) To assure that the appropriate health care services are available to address the needs of female prisoners and to assure that the Department of Corrections accelerates its planning for female prisoner health care, a Women's Health Issues Task Force is hereby established within the Department of Corrections. The purpose of the task force shall be to identify female health care issues, identify solutions to identified health care needs, and assist the department in the preparation of a five-year Female Prisoner Health Care Master Plan. This plan shall include a female health needs assessment analysis, including an analysis of the necessary medical staff, an analysis of the appropriate licensure categories, and proposals for facilities necessary to provide effective female health care in a correctional setting. The plan shall contain timetables and funding alternatives and shall consider the needs of individual institutions as well as departmentwide issues.

(b) The department shall appoint sufficient medical experts on female health issues to the task force to facilitate development and production of the plan. At a minimum, the department shall appoint to the task force representatives of public health organizations specializing in female health issues and appropriate representatives of the State Department of Health Services and the California Medical Association specializing in prisoner health care. The task force shall also include a representative designated by the Blue Ribbon Commission on Women in California Prisons established by Senate Concurrent Resolution 33 of the 1991–92 Regular Session of the Legislature. The Senate Committee on Rules and the Speaker of the Assembly shall submit to the Department of Corrections appointment recommendations for the task force. The membership of the task force shall be broadly reflective of the general public including ethnic minorities and women. Appointments shall also include persons with medical expertise in the following areas:

(1) Obstetrics and gynecology care for female prisoners.

(2) Care and treatment of females with AIDS and who are HIV positive.

(3) Issues affecting elderly females.

(4) Diseases disproportionately affecting people of color, including, but not limited to, hypertension, diabetes, and sickle-cell anemia.

(5) Psychological issues affecting institutionalized and incarcerated females.

(6) Licensure and accrediting of health care facilities issues.

(c) The department shall report to the Legislature on or before December 31, 1992, the findings of the task force. Upon completing the five-year Female Prisoner Health Care Master Plan, the department shall report to the Legislature annually, on the department's progress in meeting the goals established by the plan.

(d) This section shall remain in effect only until January 1, 1993, and as of that date is repealed.

SEC. 3. It is the intent of the Legislature that the provisions of this act work in concert with the provisions of Senate Concurrent Resolution 33 of the 1991–92 Regular Session.

CHAPTER 693

An act to add and repeal Chapter 6 (commencing with Section 99250) to Part 65 of the Education Code, relating to postsecondary education.

[Approved by Governor October 7, 1991 Filed with Secretary of State October 9, 1991]

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

SECTION 1. Chapter 6 (commencing with Section 99250) is added to Part 65 of the Education Code, to read:

CHAPTER 6. GOVERNOR'S PROFESSOR OF THE YEAR AWARDS

99250. The Governor's Professor of the Year Awards shall be awarded annually to three or more faculty members teaching undergraduate courses at public or private postsecondary educational institutions who demonstrate exceptional teaching performance.

99251. Each public or private postsecondary educational institution is eligible to nominate one faculty member for these awards each year.

99252. The Governor, with the assistance of the California Postsecondary Education Commission, shall establish a committee to select the recipients of the Governor's Professor of the Year Awards. The committee shall consist of representatives of the Governor, the Legislature, the commission, the academic senates, and appropriate civic, business, academic, and student organizations. The committee shall develop specific criteria and guidelines to be used in selecting the recipients of the Governor's Professor of the Year Awards.

99253. Each recipient of the award shall receive a citation and a payment of five thousand dollars ($5,000). The Governor shall host an appropriate ceremony at which the awards shall be presented to the recipients.

99254. The commission shall seek funding for these awards through contributions from the private corporate sector. Working in cooperation with the committee, the commission shall prepare a biennial report describing specific examples of successful innovative teaching strategies being used by undergraduate faculty in public and private postsecondary educational institutions in California.

99255. The Governor's Professor of the Year Awards shall be awarded commencing in 1992, and every year thereafter.

99256. This chapter shall become inoperative on June 30, 1997, and, as of January 1, 1998, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1998, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 2. It is the intent of the Legislature, in enacting Chapter 6 (commencing with Section 99250) of Part 65 of the Education Code, to foster quality in undergraduate education. As the Legislature's Joint Committee for Review of the Master Plan for Higher Education concluded in 1989, "absolutely central to any hope for quality undergraduate education must be an uncompromising commitment to excellence in undergraduate teaching."

CHAPTER 694

An act to amend Sections 19150, 19152, 19350, 19352, 19352.5, 19352.8, 19353, 19353.5, 19354, 19354.5, 19354.8, 19355, 19356, 19356.5, 19356.6, 19356.7, 19357, 19361, and 19404 of, and to add Sections 19351, 19358, and 19358.5 to, the Welfare and Institutions Code, relating to public social services, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 7, 1991. Filed with Secretary of State October 9, 1991.]

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

SECTION 1. Section 19150 of the Welfare and Institutions Code is amended to read:

19150. (a) The term "vocational rehabilitation services" means the following services and goods:

(1) Evaluation, including diagnostic and related services, incidental to the determination of eligibility for and the nature and scope of services to be provided, and evaluation of the rehabilitation potential for supported employment.

(2) Counseling, guidance, and placement services for persons with disabilities, including followup services to assist those individuals in maintaining their employment, both competitive and supported.

(3) Training services for persons with disabilities, which shall include personal and vocational adjustment, books, and other

training materials.

(4) Reader services for the blind and interpreter services for the deaf.

(5) Job coaching services that may include any of all of the following:

(A) On-the-job skill training.

(B) Observation or supervision at the worksite.

(C) Consultation or training, or both, of coworkers and supervisors.

(D) Assistance in integrating into the work environment.

(E) Destination training.

(F) Assistance with public support agencies.

(G) Family and residential provider consultation.

(H) Any other on- or off-the-job support services needed to reinforce and stabilize job placement.

(6) Recruitment and training services for persons with disabilities to provide them with new employment opportunities in the fields of rehabilitation, health, welfare, public safety, and law enforcement, and other appropriate service employment.

(7) Physical restoration services, including, but not limited to the following:

(A) Corrective surgery or therapeutic treatment necessary to correct or substantially modify a physical or mental condition which is stable or slowly progressive and constitutes a substantial barrier to employment, but is of such a nature that the correction or modification may reasonably be expected to eliminate or substantially reduce the disability within a reasonable length of time.

(B) Necessary hospitalization in connection with surgery or treatment.

(C) Prosthetic and orthotic devices.

(D) Eyeglasses and visual services as prescribed by a physician skilled in the diseases of the eye or by an optometrist.

(8) Maintenance, not exceeding the estimated cost of subsistence, during rehabilitation.

(9) Occupational licenses, tools, equipment, and initial stocks and supplies.

(10) In the case of any type of small business operated by the severely disabled, the operation of which can be improved by management services and supervision provided by the department, the provision of those services and supervision, alone or together with the acquisition by the department of vending stands or other equipment and initial stocks and supplies.

(11) The provision of other facilities and services which promise to contribute substantially to the rehabilitation of a group of individuals but which are not related directly to the rehabilitation plan of any one person with disabilities.

(12) Transportation in connection with the rendering of any other vocational rehabilitation service.

(13) Any other goods and services necessary to render a person

with disabilities employable.

(14) Services to the families of persons with disabilities when those services will contribute substantially to the rehabilitation of those individuals.

(b) For the purposes of subdivision (a), full consideration of eligibility for any similar benefit shall be utilized to the extent permitted by federal law.

SEC. 2. Section 19152 of the Welfare and Institutions Code is amended to read:

19152. (a) "Rehabilitation facility" means a facility which is operated for the primary purpose of providing vocational rehabilitation services to, or gainful employment for, persons with disabilities, or for providing evaluation and work adjustment services for persons with disabilities, and which provides singly or in combination one or more of the following services for persons with disabilities:

(1) Comprehensive rehabilitation services which shall include, under one management, medical, psychological, social, and vocational services.

(2) Testing, fitting, or training in the use of prosthetic and orthotic devices.

(3) Prevocational conditioning or recreational therapy.

(4) Physical and occupational therapy.

(5) Speech and hearing pathology.

(6) Psychological and social services.

(7) Evaluation.

(8) Personal and work adjustment.

(9) Vocational training (in combination with other rehabilitation services).

(10) Evaluation or control of special disabilities.

(11) Assessment, including evaluation of the rehabilitation potential for supported employment, development, and placement in jobs.

(12) Development of, and placement in, jobs.

(13) Job coaching services to enable a person with disabilities to obtain or maintain supported or competitive employment.

(14) Extended employment for persons with severe disabilities who cannot be readily absorbed into the competitive labor market.

(b) All medical and related health services shall be prescribed by, or under the formal supervision of, persons licensed to practice medicine or surgery in the state.

SEC. 3. Section 19350 of the Welfare and Institutions Code is amended to read:

19350. (a) The Legislature reaffirms its intent that habilitation services for adults with developmental disabilities should be planned and provided as a part of a continuum and that habilitation services should be available to enable persons with developmental disabilities to approximate the pattern of everyday living available to nondisabled people of the same age.

(b) The Legislature further intends that habilitation services shall be provided to adults with developmental disabilities as specified in this chapter in order to guarantee the rights stated in Section 4502.

SEC. 4. Section 19351 is added to the Welfare and Institutions Code, to read:

19351. (a) Except as otherwise specifically provided, Chapter 4.5 (commencing with Section 19350) shall only apply to those services purchased by the Habilitation Services Program.

(b) Nothing in this section shall be construed to abridge the rights stated in Section 4502.

SEC. 5. Section 19352 of the Welfare and Institutions Code is amended to read:

19352. As used in this chapter:

(a) "Habilitation services" means those community-based services purchased or provided for adults with developmental disabilities including work activity and supported employment, to prepare and maintain them at their highest level of vocational functioning, or to prepare them for referral to vocational rehabilitation services.

(b) "Individual program plan" means the overall plan developed by a regional center pursuant to Section 4646.

(c) "Individual habilitation component" means the plan developed for each eligible person for whom services are purchased under this chapter.

(d) "Department" means the Department of Rehabilitation.

(e) "Work-activity program" includes, but is not limited to, sheltered workshops, or workshops or work-activity centers accredited under departmental regulations.

(f) "Habilitation team" means a group, which shall be established for each work-activity program or supported employment services, which shall be composed of the following members:

(1) The regional center case manager.

(2) The work-activity program case-responsible person.

(3) A habilitation specialist designated by the department.

(4) The work-activity program consumer, and where appropriate, his or her parent, legal guardian, or conservator.

(g) "Work-activity program day" means the period of time during which a work-activity program provides services to clients.

(h) "Full day of service" means, for purposes of billing, a day in which either of the following occur:

(1) The consumer attends a fully approved work-activity program day.

(2) The consumer cannot attend a fully approved work-activity program, but attends for a minimum of four hours, excluding the lunch period, if the fully approved work-activity program day is available to the consumer.

(i) "Half day of service" means, for purposes of billing, (1) all days of attendance in which the consumer's attendance does not meet the criteria for billing for a full day of service as defined in subdivision

(h), and (2) the consumer attends the work activity program not less than two hours excluding the lunch period.

(j) "Supported employment program" means a program which meets the requirements of Sections 19356.6 and 19356.7.

(k) "Consumer" means any person who receives services purchased under this chapter.

(*l*) "Consumer with special needs" means any person who needs an enriched program of services due to multiple disabling conditions or other unique needs of the consumer which include, but shall not be limited to, mobility impairments, blindness, deafness, or psychiatric impairment.

(m) "Accreditation" means a determination of compliance with the set of standards appropriate to the delivery of services by a work-activity program or supported employment program, developed by the Commission on Accreditation of Rehabilitation Facilities, and applied by the commission or the department.

SEC. 6. Section 19352.5 of the Welfare and Institutions Code is amended to read:

19352.5. (a) The habilitation team shall meet when it is necessary to do any of the following:

(1) Determine if the services available at the work-activity program or supported employment program best meet the needs of the consumer.

(2) Determine initial eligibility.

(3) Develop an individual habilitation component.

(4) Review continued eligibility.

(b) (1) If the habilitation specialist disagrees with the team, the habilitation specialist shall make the final decision subject to appeal to the department by the consumer or his or her designated representative.

(2) The habilitation specialist shall substantiate any decision made pursuant to paragraph (1) by doing all of the following:

(A) Stating in writing the reasons for disagreement and the decision.

(B) Stating that the decision is not made for fiscal reasons.

SEC. 7. Section 19352.8 of the Welfare and Institutions Code is amended to read:

19352.8. (a) Only decisions made by the habilitation team or habilitation specialist with respect to the appropriateness of the service available from the provider, and eligibility for services or development of the individual habilitation component are subject to appeal. If a work-activity program or supported employment program consumer appeals a decision made pursuant to Section 19353.5 to the department, the consumer shall, pending the outcome of the appeal, continue to receive the same level of services provided prior to appeal.

(b) If a work-activity program consumer appeals a decision made pursuant to Section 19354.1 to the department, the consumer shall, pending the outcome of the appeal, continue to receive the same

level of service provided prior to appeal.

SEC. 8. Section 19353 of the Welfare and Institutions Code is amended to read:

19353. A person shall be eligible for habilitation services under this chapter when all of the following exist:

(a) The person is an adult who has been diagnosed as having a developmental disability.

(b) The disability is so severe that the person does not presently have potential for competitive employment.

(c) The degree of the person's disability has been determined by the department to be too severe to allow the person to benefit from vocational rehabilitation services.

(d) The person is determined to be in need of habilitation services in an individual program plan developed by a regional center pursuant to Section 4646.

(e) The department verifies, as necessary, that the person meets the eligibility criteria for habilitation services specified in subdivisions (a) to (d), inclusive, and the habilitation specialist signs a statement that the person is eligible for habilitation services.

SEC. 9. Section 19353.5 of the Welfare and Institutions Code is amended to read:

19353.5. (a) When the department has made its determination of eligibility pursuant to subdivision (e) of Section 19353, the individual shall be placed in a work-activity program or supported employment program, and shall be deemed presumptively eligible for the period not to exceed 90 days.

(b) During the period of presumptive eligibility, the work-activity program or supported employment program in which the person is placed shall evaluate the performance of the individual in all of the following areas:

(1) Appropriate behavior to safely conduct himself or herself in a work setting.

(2) Adequate attention span to reach a productivity level in paid work.

(3) Ability to understand simple instructions within a reasonable length of time.

(4) Ability to communicate basic needs and understand basic receptive language.

(5) Attendance level.

(c) (1) During the period of presumptive eligibility, the habilitation team shall, utilizing the findings of the work-activity or supported employment program made pursuant to this section, determine the initial eligibility of the individual.

(2) The habilitation team shall meet only as necessary under Section 19352.5.

SEC. 10. Section 19354 of the Welfare and Institutions Code is amended to read:

19354. The individual program plan shall remain in effect as the overall service plan that is the responsibility of the regional center

except that the department shall be responsible for the development of the individual habilitation component of the individual program plan and the purchase of habilitation services.

SEC. 11. Section 19354.5 of the Welfare and Institutions Code is amended to read:

19354.5. (a) The department shall monitor, evaluate, and audit habilitation services providers for program effectiveness taking into consideration criteria, including, but not limited to, all of the following:

(1) Service quality assurance.

(2) Cost effectiveness.

(3) Cost containment.

(4) Protections for persons receiving services.

(5) An equitable rate system.

(6) Compliance with applicable standards of the Commission on Accreditation of Rehabilitation Facilities.

(b) (1) The department may impose immediate sanctions on providers of work-activity programs and supported employment programs for noncompliance with accreditation or services standards contained in regulations adopted by the department, and safety violations which pose a threat to consumers of habilitation services. These sanctions shall include, but need not be limited to, a moratorium on new referrals, imposition of a corrective plan as specified in regulations, removal of consumers from a service area where dangerous conditions or abusive conditions exist, and termination of approval for habilitation funding.

(2) A moratorium on new referrals shall be the first formal sanction to be taken except in instances where consumers are at imminent risk of abuse or other harm. The moratorium shall be in place only until the conditions cited are corrected as determined by the habilitation specialist.

(3) A corrective plan shall be the second formal sanction to be taken in the event the moratorium does not produce timely results. Noncompliance with the conditions and timelines of the corrective plan shall result in termination of approval for habilitation funding.

(4) Removal of consumers from a program shall only take place where dangerous or abusive conditions are present, or upon termination of approval for habilitation funding. In instances of removal for health and safety reasons, consumers may return, at their option, when the corrections are made by the program, as determined by the department.

(5) Any provider sanctioned under paragraph (2), (3), or (4) may request an administrative review.

(A) The sanctioned provider shall submit its request for an administrative review, in writing, no later than 30 calendar days following written notice from the department on the sanctions imposed. The response shall be addressed to the Chief Deputy Director of the Department of Rehabilitation. The request for administrative review shall specify the reasons the appellant believes

the sanctions should not be imposed and shall include supporting documentation. The department shall convene a Habilitation Services Program administrative review committee within 30 calendar days of receipt of a timely written request for an administrative review. The committee shall be made up of the Chief Deputy Director of the Department of Rehabilitation and the deputy directors or their designees. A written decision of the committee shall be mailed to the appellant within 15 working days of the administrative review.

(B) A provider sanctioned under paragraph (4) may also request an expedited administrative review from the Deputy Director of the Program Management and Support Division of the Department of Rehabilitation. The expedited review request shall be made by 4 p.m. of the first full-working day following removal of the consumers. A telephone request to the deputy, or his or her designee, stating a wish to appeal the removal of consumers and a statement of reasons shall be accepted when followed by written confirmation received in the deputy director's office no later than five working days after the action to remove consumers is taken. The expedited administrative review by the deputy director, or his or her designee, shall take place within five working days of receipt of a timely request. A written decision shall be issued within five working days of the expedited administrative review. The provider sanctioned under paragraph (4) may exercise the administrative review procedure referenced in subparagraph (A) in lieu of, or in addition to, the expedited administrative review. In the event both options are exercised, the regular administrative review shall serve as a second level review.

SEC. 12. Section 19354.8 of the Welfare and Institutions Code is amended to read:

19354.8. Each work-activity program facility shall annually review its consumers in order to determine whether these individuals should be referred for vocational rehabilitation services, including supported employment.

SEC. 13. Section 19355 of the Welfare and Institutions Code is amended to read:

19355. (a) The department shall purchase those habilitation services which it determines to be necessary in the individual habilitation component of the individual program plan for eligible adults with developmental disabilities from accredited community nonprofit agencies providing work-activity services or supported employment services, or both.

(b) Habilitation services shall continue as long as reasonable progress is being made toward achieving objectives of the individual habilitation component or as long as these services are determined by the habilitation team to be necessary to maintain the current level of functioning of the person.

(c) It is the intent of the Legislature that all persons receiving services at the end of any fiscal year shall be continued in service as identified in the habilitation component of the individual program

plan in the subsequent fiscal year.

SEC. 14. Section 19356 of the Welfare and Institutions Code is amended to read:

19356. (a) The department shall promulgate regulations to establish rates subject to the approval of the Department of Finance. The regulations shall provide for an equitable ratesetting procedure in which each specific allowable service, activity, and provider administrative cost comprising an overall habilitation service, as determined by the department, reflects the reasonable cost of service. Reasonable costs shall be determined annually by the department, subject to audit at the discretion of the department.

(b) Notwithstanding subdivision (a), commencing July 1, 1988, the department shall set rates for work-activity program facilities based on the following premises and methodology:

(1) Work-activity program facilities shall be grouped into four categories, as follows:

(A) Three categories shall be determined by the size of client attendance:

(i) Category A, including client attendance of not more than 30.

(ii) Category B, including client attendance of more than 30 but not more than 100.

(iii) Category C, including client attendance of more than 100.

Client attendance for categories "A," "B," and "C" shall be determined by dividing the number of habilitation days billed in the previous historical year, as specified in regulations adopted pursuant to subdivision (a), by the number of billable days in that year.

(B) One category shall be determined by the primary purpose of the work-activity program:

(i) Category D, consisting of all facilities, without regard to client attendance, which the department approves to provide services to clients with special needs.

(2) (A) Notwithstanding other provisions of this subdivision, the department shall redetermine the size of each facility in categories A, B, and C annually, using the methodology specified in paragraph (1). If a facility's client attendance size changes, resulting in changing that facility to a new category, the department shall adjust its rate, using the methodology prescribed in paragraph (3), the existing cost statement, and the gross weighted average of the category of the facility's new category.

(B) The redetermination of facility size and rate adjustments based on facility size shall be suspended for the 1991–92 fiscal year.

(3) The department shall compute the gross weighted average of each category of work-activity program, based on cost statements submitted biennially in the form specified in regulations adopted pursuant to subdivision (a). The rate for the two payment years following that computation, except as provided in paragraphs (2) and (5), and except for any annual cost of living adjustments contained in the annual Budget Act, for each individual facility shall be set at the highest of the following three options:

(A) (i) Option A: the net to gross of each facility, which shall be the ratio of the daily net cost, or the cost excluding recoveries, as specified in regulations adopted pursuant to subdivision (a), to the daily gross cost, or the cost including recoveries. The net to gross ratio multiplied by the gross weighted average of the respective category multiplied by 95 percent shall be the Option A rate for each facility in all categories.

(ii) Beginning July 1, 1990, Option A shall be the net to gross multiplied by the gross weighted average of the respective category for each facility in all categories.

(B) (i) Option B for all facilities other than category D facilities: the individual new cost statement rate multiplied by 95 percent.

(ii) Option B for category D facilities: the individual new cost statement rate.

(C) Option C:

(i) For facilities in categories A, B, and C when the net to gross of the new cost statement is lower than the net to gross of the previous cost statement: the individual rate paid in the 1987–88 fiscal year, less the product of the individual rate paid in the 1987–88 fiscal year multiplied by the difference of the net to gross ratios between the previous cost statement and the new cost statement, multiplied by 90 percent.

(ii) For facilities in categories A, B, and C when the net to gross of the new cost statement is equal to, or higher than, the net to gross of the previous cost statement: the product of the individual rate paid in the 1987–88 fiscal year multiplied by 90 percent.

(iii) For facilities in category D: the same methodology specified in subparagraphs (i) and (ii), except the percentage factor shall be 100 percent.

(iv) Option C shall be operative only until July 1, 1990.

(4) The gross weighted average specified in paragraph (3) shall be determined by using the cost statements submitted by facilities in the 1987–88 fiscal year pursuant to regulations adopted pursuant to subdivision (a), to determine the daily gross rate for each facility for each category. The daily gross rate of each facility in the same category shall be multiplied by the number of client attendance days to determine the program cost of that facility. The gross weighted average of each category shall be the quotient of the sum of the total program costs and the total days attended, of all facilities in the same category. The department shall biennially reset the gross weighted average and the rate options specified in paragraph (3), using new cost statements.

(5) (A) The department shall make no rate adjustments other than those specified in paragraph (2), those rate adjustments based on the loss of subsidized staff, and cost-of-living adjustments contained in the Budget Act.

(B) The department shall reset the rate due to the loss of subsidized staff only for the individual facility which incurs the loss, and only in the following circumstances:

(i) The facility is receiving a rate which is less than the gross weighted average of its category.

(ii) The facility has hired or retained staff to maintain the staffing level specified in regulations adopted pursuant to subdivision (a).

(iii) The adjusted rate due to loss of subsidized staff shall not exceed the gross weighted average of its category, and shall become effective on the following July 1.

(6) The department may adopt regulations in addition to those adopted pursuant to subdivision (a), after consultation with the California Association of Rehabilitational Facilities and the Association for Retarded Citizens-California, or any advisory groups which are successors to those groups that represent work-activity programs, which set forth further policies and procedures and staffing and performance standards for work-activity programs. The department shall meet at least semiannually with those provider advisory groups to review and make recommendations regarding implementation of this subdivision.

(7) This subdivision shall become inoperative July 1, 1996.

SEC. 15. Section 19356.5 of the Welfare and Institutions Code is amended to read:

19356.5. (a) The department may approve new work-activity programs, after confirming the need for a new work-activity program, determining the capacity of a new work-activity program to deliver effective services, and assessing the ability of the program to comply with accreditation requirements of the Habilitation Services Program, when applicable.

(b) Work-activity programs or program components that receive the department's approval to provide supported employment services shall receive rates in accordance with Section 19356.6.

(c) (1) Any other new program or program component, including that which has as its primary purpose the provision of specialized services to meet the needs of particular groups shall receive the gross weighted average of its respective category.

(2) As soon as the new work-activity facility has a historical period of not less than three months that is representative of the cost per consumer, as determined by the department, the department shall set the rate in accordance with subparagraphs (A), (B), and (C) of paragraph (3) of subdivision (b) of Section 19356, using the gross weighted average for the appropriate category.

(3) This subdivision shall remain operative only until July 1, 1996.

(d) Notwithstanding Section 19355, the department may purchase services from new work-activity programs or program components, even though the program or program component is not yet accredited by the Commission on Accreditation of Rehabilitation Facilities if all of the following apply:

(1) The department can verify that the program or program component is in compliance with accreditation standards adopted by the department.

(2) (A) The program or program component commits, in

writing, to apply for accreditation by the Commission on Accreditation of Rehabilitation Facilities within three years of the purchase of the services by the Habilitation Services Program.

(B) The commission shall accredit a program or program component within four years after the program or program component has applied pursuant to subparagraph (A).

SEC. 16. Section 19356.6 of the Welfare and Institutions Code is amended to read:

19356.6. (a) The definitions contained in this subdivision shall govern the construction of this section, with respect to services provided through the Habilitation Service Program, and unless the context requires otherwise, shall have the following meanings:

(1) "Supported employment" means substantial paid work that is integrated in the community for persons with developmental disabilities whose vocational handicap is so severe that they would be unable to achieve this employment without specialized services and would not be able to retain this employment without an appropriate level of ongoing postemployment support services.

(2) "Substantial paid work" means work of at least 20 hours per week which is paid for in accordance with applicable standards set forth by the Department of Labor and the State Department of Industrial Relations.

(3) "Integrated work" means the engagement of an employee with a disability in work in a natural community employment setting, including, but not limited to, groups and individual placements, in which the degree of integration is measured by the extent to which the disabled employee has opportunities to interact with nondisabled individuals other than those providing direct support services to the disabled employee.

(4) "Group placement" means the engagement of a group containing at least three, but not more than eight, persons with developmental disabilities in paid work in an integrated work setting in the community, usually at employer sites, and which represents a minority of the employer's workforce.

(5) "Individual placement" means placing a person with a developmental disability with an employer in the community and providing specialized services which are intended to lead to employer-paid and employer-supervised employment, and where services decrease as the individual adjusts to the job; and ongoing postemployment services necessary for the individual to retain the job.

(6) "Allowable supported employment services" means the services approved in the individual habilitation component and provided, to the extent allowed by the Habilitation Services Program, for the purpose of achieving supported employment as an outcome for persons with developmental disabilities, which may include any of the following:

(A) Program staff time spent conducting task analysis on a supported employment opportunity for a specific consumer or group

of consumers.

(B) Program staff time spent in the direct supervision or training of a consumer or consumers while they are engaged in integrated work designed to achieve supported employment unless other arrangements for client supervision, such as employer supervision reimbursed by the work-activity program, are approved by the Habilitation Services Program.

(C) Social skills training which is necessary to ensure job adjustment and retention, and which is provided in an integrated setting, unless otherwise approved by the Habilitation Services Program.

(D) Training in certain independent living skills, such as independent travel or money management, which is necessary to ensure job adjustment and retention and which is provided in the community, unless otherwise approved by the Habilitation Services Program.

(E) Counseling with family, care providers, or others to ensure necessary support to consumers' job adjustment or to overcome problems affecting their job performance.

(F) Direct action to advocate on behalf of a consumer to resolve problems affecting the consumer's work adjustment or retention of an integrated job.

(G) Intervention with the employer to review a consumer's job performance, resolve job problems or facilitate the employer's hiring of the consumer as an employee.

(H) In the case of groups which must take equipment or materials to and from the worksite, the time the group members spend preparing for, and ending, the day's work.

(I) In the case of individual placements, job development to the extent authorized by the Habilitation Services Program, and ongoing postemployment support services needed to ensure the consumer's retention of the job.

(J) In the case of groups, the staff time spent obtaining and arranging the jobsite for a specific group of consumers.

(b) (1) Notwithstanding subdivision (c) of Section 19353, the department's habilitation services and vocational rehabilitation programs may mutually serve individuals whose individual written rehabilitation program provides for placement into supported employment, or who are participating in vocational rehabilitation extended evaluation services.

(2) Section 19351 shall not be interpreted to limit the authority provided by this subdivision to mutually serve consumers.

(c) (1) The Habilitation Services Program shall set hourly rates for supported employment services provided in accordance with this section. The Habilitation Services Program shall apply those rates to those work-activity programs or program components of work-activity programs approved by the department to provide community-integrated services under former paragraph (3) of subdivision (d) of Section 19356.5, and to new programs or

components approved by the Habilitation Services Program to provide supported employment services following enactment of this section. Both of these categories of programs or components shall be required to comply with the criteria set forth in subdivision (b) of Section 19356.7 to receive approval from the Habilitation Services Program.

(2) The hourly rate for work crews and enclaves shall be four dollars ($4) per client or, in the case of new components of existing programs, the work-activity program's daily rate converted to an hourly rate according to the formula set forth in subdivision (d), whichever hourly rate is the higher. In addition, the Habilitation Services Program may, at its discretion, negotiate a higher hourly rate for work crews or enclaves, based upon a submitted budget that is approved by the Habilitation Services Program, when there is documentation that demonstrates a need for a higher rate because of the nature and severity of the disabilities of the clients served or unique local needs, as determined by the Habilitation Services Program. All negotiated rate increases based on unique local needs shall be contingent upon review and approval by the Department of Finance.

(3) The hourly rate for individual placement shall be twenty dollars ($20) per consumer for one-to-one services. If more than one client is receiving placement services simultaneously at the same site, the amount to be reimbursed per hour of service provided shall not exceed twenty dollars ($20) regardless of the number of consumers receiving service during the hour.

(4) These hourly rates shall be subject to rate adjustments provided by law commencing with the 1987–88 fiscal year.

(5) (A) Commencing July 1, 1991, the department shall add to each supported employment program rate an amount that is the equivalent of the hourly reimbursement received by the program for administrative services delivered during the period of July 1, 1990, to March 31, 1991, inclusive.

(B) For programs approved after July 1, 1991, pursuant to Section 19356.7, the statewide average for hourly reimbursement for administrative services shall be applied to the rate.

(d) (1) When a consumer receives traditional work-activity services and supported employment services during the same payment period, the Habilitation Services Program shall convert the daily rate for the traditional work-activity services into an hourly rate for the purpose of paying for those traditional work-activity services received by that consumer. In its conversion of the daily rate into any hourly rate the Habilitation Services Program shall use the formula in paragraph (2).

(2) The daily rate of the work-activity program shall be divided by the number of hours in the program day of the traditional work-activity program during the historical period on which its rate is based, or as of the date the Habilitation Services Program approved the work-activity program as a new provider of habilitation services

plus 5 percent.

(e) This section shall become inoperative on October 1, 1996, and, as of January 1, 1997, is repealed "unless a later enacted statute" which becomes effective on or before January 1, 1997, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 17. Section 19356.7 of the Welfare and Institutions Code is amended to read:

19356.7. (a) Proposals for funding of supported employment programs and components by the Habilitation Services Program shall be submitted to the Habilitation Services Program and shall contain sufficient information to enable the Habilitation Services Program to act on the proposal under this section.

(b) Provided that sufficient funding is available to finance services by supported employment programs and components, the Habilitation Services Program may approve or disapprove proposals based on all of the following criteria:

(1) The need for a supported employment program or component.

(2) The capacity of the program to deliver supported employment services effectively.

(3) The ability of the program to comply with accreditation requirements of the Habilitation Services Program.

(4) A profile of an average consumer in the program or component, showing the planned progress toward self-reliance as an employee, measured, as appropriate, in terms of decreasing support services.

(5) The ability of the program to achieve integrated substantial paid work on the average for consumers served.

(c) The Habilitation Services Program may purchase supported employment services at the rates authorized in Section 19356.6 only from supported employment programs or components approved under this section.

(d) For purposes of evaluating the effectiveness of the entire program, and individual supported employment programs or components, the Habilitation Services Program may monitor supported employment programs or components to determine whether the performance agreed upon in the approved proposal is being achieved. When the performance of a supported employment program or component does not comply with the criteria according to which it was approved for funding pursuant to subdivision (b), the Habilitation Services Program may establish prospective performance criteria for the program or component, with which the program or component shall comply as a condition of continued funding.

(e) The department may adopt the regulations it deems necessary to implement Sections 19352, 19356.6, and this section.

(f) This section shall become inoperative on October 1, 1996, and, as of January 1, 1997, is repealed unless a later enacted statute which becomes effective on or before January 1, 1997, deletes or extends the

dates on which it becomes inoperative and is repealed.

SEC. 18. Section 19357 of the Welfare and Institutions Code is amended to read:

19357. The department shall also:

(a) Work cooperatively with appropriate state agencies to ensure uniformity in service systems applying to community programs providing habilitation services and their eligible recipients of service in such areas as any or all of the following:

(1) Eligibility requirements.

(2) Program planning and evaluation.

(3) Accreditation standards.

(4) Ratesetting.

(b) Assist in the development of new and innovative work activity programs for adults with developmental disabilities in the community.

SEC. 19. Section 19358 is added to the Welfare and Institutions Code, to read:

19358. (a) The length of a work-activity program day shall not be less than five hours, in addition to the lunch period.

(b) (1) Except as provided in paragraph (1), the length of a work-activity program day shall not be reduced from the length of the work-activity program day in the historical period that was the basis for the approved habilitation services rate.

(2) (A) A work-activity program may, by prior written approval of the department, change the length of a work-activity program day.

(B) If the department approves a reduction in the work-activity program day pursuant to subparagraph (A), the department may change the habilitation services rate.

(c) (1) A work-activity program may change the length of a work-activity program day on an individual basis in order to meet the needs of the consumer, if the habilitation specialist approves the reason or reasons for the change.

(2) The work-activity program shall document the reasons for any change in a work-activity program day on an individual basis.

SEC. 20. Section 19358.5 is added to the Welfare and Institutions Code, to read:

19358.5. (a) Billing under this chapter for workdays of not less than four hours to which paragraph (2) of subdivision (h) of Section 19352 applies shall be subject to all of the following requirements:

(1) Not more than six days a month may be billed under this chapter for workdays subject to this section.

(2) Not more than 36 days in a work-activity program's fiscal year may be billed for workdays subject to this section.

(b) (1) A consumer's attendance record shall be documented for each occurrence of a workday subject to this section.

(2) (A) A work-activity program shall document any action taken concerning the occurrence of any day subject to this section.

(B) Failure to document pursuant to this paragraph may result in

an audit exception.

SEC. 21. Section 19361 of the Welfare and Institutions Code is amended to read:

19361. The work activity programs shall, at the request of the department or the regional center, release accreditation and state licensing reports, and consumer incident reports required by law or regulations in instances of suspected abuse.

SEC. 22. Section 19404 of the Welfare and Institutions Code is amended to read:

19404. Any state agency, city or county, political subdivision, or district of this state may, without advertising or calling for bids, purchase materials and supplies manufactured and services provided by public or private nonprofit California corporations operating rehabilitation facilities serving persons with disabilities who have indicated an interest in supplying those goods and services and may, on an equitable basis apportion the business among the interested rehabilitation facilities, provided the goods or services meet the specifications and needs of the purchasing agency and are purchased at a fair market price, as determined by the appropriate state or local agency and provided that the public or private nonprofit California corporations comply with all of the following requirements:

(a) (1) Contract work obtained under this section shall be performed by a labor force which is comprised primarily of persons with disabilities, as measured by the percentage of person-hours of direct labor devoted to the contract work.

(2) For purposes of this paragraph, "primarily" means 75 percent or greater.

(3) Agree to make those elections permitted of any nonprofit corporation under the federal Insurance Contributions Act and the California Unemployment Insurance Code in order to provide social security and unemployment and disability benefits for its employees commencing with its first contract or purchase order under this section and continuing thereafter. In the event that the nonprofit corporation ceases to provide those benefits, any existing contract or purchase order under this section with the corporation is terminated and no further contracts or purchase orders shall be awarded to that corporation for the period of two years after the corporation ceases to provide the benefits. For the purposes of this subdivision, a person with a disability shall be considered an employee when performing productive work.

(4) Provide in its articles of incorporation that at least two of the directors of its board of directors shall be comprised of persons with disabilities or the parents, guardians, or conservators of individuals with disabilities. Directors who are also employees of the nonprofit corporation shall not participate in or be present at discussions of the board of directors concerned with labor-management contract negotiations.

(5) Provide for disabled employees of the nonprofit corporation benefits and other employer-employee agreements substantially

equal to those benefits and agreements entered into between each nonprofit corporation and the representatives designated by a majority of the employees.

(6) Not commit any unfair labor practices as defined in Section 8(a) of the National Labor Relations Act.

(7) Abide by the provisions of the Federal Fair Labor Standards Act, the Walsh-Healy Public Contract Act, the Wagner O'Day Act, and the regulations of the State Division of Industrial Welfare.

(b) For purposes of this section a "disabled person" means any person (other than a blind person) who is so severely incapacitated by any physical or mental disability that he or she cannot currently engage in normal competitive employment because of the disability.

SEC. 23. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to timely implement, for the 1991–92 fiscal year, policy changes designed to protect vulnerable consumers with developmental disabilities, to help meet the serious anticipated budget deficit for the 1991–92 fiscal year, to suspend for one year the rate increases required by paragraph (2) of subdivision (b) of Section 19356 of the Welfare and Institutions Code, to allow budget funds to be applied against the unallocated "trigger" reduction, and to avert additional program reductions, it is necessary that this act take effect immediately.

CHAPTER 695

An act to amend Section 1822 of the Public Utilities Code, relating to public utilities.

[Approved by Governor October 7, 1991 Filed with Secretary of State October 9, 1991.]

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

SECTION 1. Section 1822 of the Public Utilities Code is amended to read:

1822. (a) Any computer model that is the basis for any testimony or exhibit in a hearing or proceeding before the commission shall be available to, and subject to verification by, the commission and parties to the hearing or proceedings to the extent necessary for cross-examination or rebuttal, subject to applicable rules of evidence, except that verification is not required for any electricity demand model or forecast prepared by the State Energy Resources Conservation and Development Commission pursuant to Section 25309 or 25402.1 of the Public Resources Code and approved and adopted after a hearing during which testimony was offered subject

to cross-examination. The commission shall afford each of these electricity demand models or forecasts the evidentiary weight it determines appropriate. Nothing in this subdivision requires the State Energy Resources Conservation and Development Commission to approve or adopt any electricity demand model or forecast.

(b) Any testimony presented in a hearing or proceeding before the commission that is based in whole, or in part, on a computer model shall include a listing of all the equations and assumptions built into the model.

(c) Any data base that is used for any testimony or exhibit in a hearing or proceeding before the commission shall be reasonably accessible to the commission staff and parties to the hearing or proceeding to the extent necessary for cross-examination or rebuttal, subject to applicable rules of evidence, as applied in commission proceedings.

(d) The commission shall adopt rules and procedures to meet the requirements specified in subdivisions (a), (b), and (c). These rules shall include procedural safeguards that protect data bases and models not owned by the public utility.

(e) The commission shall establish appropriate procedures for determining the appropriate level of compensation for a party's access.

(f) Each party shall have access to the computer programs and models of each other party to the extent provided by Section 1822. The commission shall not require a utility to provide a remote terminal or other direct physical link to the computer systems of a utility to a third party.

(g) The commission shall verify, validate, and review the computer models of any electric corporation that are used for the purpose of planning, operating, constructing, or maintaining the corporation's electricity transmission system, and that are the basis for testimony and exhibits in hearings and proceedings before the commission.

(h) The transmission computer models shall be available to, and subject to verification by, each party to a commission proceeding in accordance with subdivision (a) of Section 1822, and regulations adopted pursuant to subdivision (d) of Section 1822.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 696

An act to add Section 84202.3 to the Government Code, relating to elections.

[Approved by Governor October 7, 1991 Filed with Secretary of State October 9, 1991.]

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

SECTION 1. Section 84202.3 is added to the Government Code, to read:

84202.3. (a) In addition to the campaign statements required by Section 84200 and subdivision (f) of Section 84200.5, committees pursuant to subdivision (a) of Section 82013 that are primarily formed to support or oppose the qualification, passage, or defeat of a state ballot measure and proponents of a state ballot measure who control a committee formed or existing primarily to support the qualification, passage, or defeat of a state ballot measure, shall file campaign statements on the following dates:

(1) No later than April 30 for the period January 1 through March 31.

(2) No later than October 31 for the period July 1 through September 30.

(b) This section shall not apply to a committee during any semiannual period in which the committee is required to file preelection statements pursuant to subdivision (a), (b), or (c) of Section 84200.5.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

SEC. 3. The Legislature finds and declares that this act furthers the purposes of the Political Reform Act of 1974 within the meaning of subdivision (a) of Section 81012 of the Government Code.

CHAPTER 697

An act to amend Sections 224.36, 224.50, 224.73, and 229.60 of, and to add and repeal Section 224.45 to, the Civil Code, and to amend Section 1522.4 of the Health and Safety Code, relating to adoptions, and declaring the urgency thereof, to take effect immediately as an urgency statute.

[Approved by Governor October 7, 1991 Filed with Secretary of State October 9, 1991.]

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

SECTION 1. Section 224.36 of the Civil Code is amended to read:

224.36. (a) Whenever the petitioners move to withdraw the petition for the adoption or to dismiss the proceeding, the clerk of the court in which the proceeding is pending shall immediately notify the department at Sacramento of that action. The department or the delegated county adoption agency shall file a full report with the court recommending a suitable plan for the child in every case in which the petitioners move to withdraw the petition for the adoption or where the department or the delegated county adoption agency recommends that the petition for adoption be denied and shall appear before the court for the purpose of representing the child.

(b) Notwithstanding withdrawal or dismissal by the petitioners, the court may retain jurisdiction over the child for the purpose of making any order or orders for his or her custody as the court may deem to be in the best interests of the child.

(c) Whenever the birth parent has refused to give the required consent or the reason or cause for the withdrawal of the petition, or dismissal of the proceeding is the withdrawal of the consent of the birth parent or parents, the court shall order at the hearing the child restored to the care and custody of the birth parent or parents.

SEC. 2. Section 224.45 is added to the Civil Code, to read:

224.45. (a) With respect to petitions for which a fee is charged, deferred, reduced, or waived under Section 224.47, if the department or a delegated county adoption agency fails without good cause to conduct the interviews of the petitioners and all persons from whom consent is required as specified in Section 224.44 and, within the period of time specified in Section 224.44, the petitioners, upon giving 10 days' written notice to the department or the delegated county adoption agency responsible for the investigation of the adoption, may request the superior court in which the adoption petition has been filed, or the superior court in the county in which the birth parent resides, to permit the signing of the consent in the presence of the court by any person whose consent is required. The consent and a statement of understanding shall be obtained on forms prescribed by the department. In all cases in which the consent of

the birth parent or parents is taken pursuant to this subdivision, the consent form and the statement of understanding shall be read and signed by the birth parent or parents in the presence of the superior court. Consent provided pursuant to this subdivision shall be in lieu of the otherwise applicable provisions of subdivisions (a) and (c) of Section 224.62, but shall have the same effect.

(b) For purposes of this section, "good cause" includes, but is not limited to, the following:

(1) An inability to contact or locate any of the persons who are required to be interviewed pursuant to Section 224.44.

(2) Failure of the petitioner to provide the district office of the department or the delegated county adoption agency with a copy of the filed petition and the names, addresses, and telephone numbers of all persons to be interviewed, within 10 working days of the date the petition is filed with the court.

(c) The fee authorized by subdivision (a) of Section 224.47 shall be waived if the consent of any party from whom consent is required is taken in the presence of the court pursuant to subdivision (a) of this section.

(d) This section shall become operative July 1, 1991.

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

SEC. 3. Section 224.50 of the Civil Code is amended to read:

224.50. (a) Notwithstanding the time limits of Section 224.44, if the person to be interviewed has been advised as provided in subdivision (b) and if there is no serious question about the suitability of the prospective adoptive family as provided in subdivision (c), the department or a delegated county adoption agency shall interview at the department or agency office any person willing to be interviewed from whom consent is required, within 10 working days of receiving a copy of the filed adoption petition and documentation that all of the following conditions have been met:

(1) The person from whom consent is required has been advised pursuant to subdivision (b).

(2) There is no serious question about the suitability of the prospective adoptive family as provided in subdivision (c).

(3) The department or the agency has received the name, address, and phone number of the person to be interviewed and the complete report of the assessment of the prospective adoptive family.

The department or the delegated county adoption agency may take the consent of the person to the adoption at this interview or subsequently.

(b) The advice required by subdivision (a) shall be given by a representative of the department or a full-service adoption agency or noncustodial adoption agency, as defined in Section 220.20, as specified in this subdivision prior to placement of the child for adoption. The advice shall include a balanced presentation of the

alternatives to adoption, the right to obtain additional counseling, the right to retain separate legal counsel, the meaning of the consent to adoption, the right to future information about the status of the adoption, the needs of the child and the prospective adoptive parents for complete information on the background of the child, the content of the assessment of the prospective adoptive family, and other information determined necessary by the department. The person giving the advice shall also collect information on the background of the child from the person being advised.

Each person advised pursuant to this subdivision shall be offered at least three separate counseling sessions, to be held on different days, except that this requirement does not apply to birth fathers from whom consent for the adoption is not required. Each counseling session shall be no less than 50 minutes' duration. The counseling may be provided by a representative of the department or a licensed adoption agency or by persons licensed to provide psychotherapy or counseling selected by the person. The counseling costs shall be paid by the prospective adoptive parents at the request of the birth parents. If counseling is requested prior to the placement of the child for adoption, it shall be initiated prior to the placement.

Confirmation that a person has been advised and has received counseling, if desired, as required by this subdivision, shall be documented by the department or by an agency as described in Section 220.20 on a form prescribed by the department.

If the person from whom consent is required decides to relinquish the child for adoption, rather than to consent to adoption of the child by the petitioners, the agency advising the birth parent or parents shall not accept the relinquishment of the child, except when there are no other licensed adoption agencies in the county acceptable to the birth parent or parents, in which case the advising agency still shall not accept a relinquishment sooner than five days after completion of the giving of that advice.

(c) The determination that there is no serious question about the suitability of the prospective adoptive family, as required by subdivision (a), shall be based on an assessment conducted by the department or by a licensed adoption agency. The assessment shall be completed or updated within 12 months before the placement of the child for adoption. The assessment shall include consideration of those factors required by the department in a study to determine whether the prospective adoptive family and its home are suitable for a child, except those factors regarding the adjustment of the child in the home. In addition to describing fully information collected in the assessment and the conclusions of the assessment, the report of the assessment shall specify the characteristics of a child which the family would adopt, including, but not limited to, age, sex, ethnicity, race, and special needs. The prospective adoptive parents and any person being advised pursuant to subdivision (b) shall be provided with a written summary of the report of the assessment.

If the assessment results in a determination that there is a serious

question as to the suitability of the prospective adoptive family, or if the assessment is discontinued prior to completion because of such a question, the department or the adoption agency shall provide a report of the complete or incomplete assessment to the department. The department shall retain this report for 10 years for use in any assessment of the suitability of the family to adopt a child.

(d) Any relationship between an attorney and a licensed private adoption agency involved in providing advice, counseling, or assessment to any party in an adoption pursuant to subdivision (b), shall be disclosed in writing to any person from whom consent is required and to the prospective adoptive parents.

(e) No licensed private adoption agency is required to provide the advice and assessment services specified in subdivisions (b) and (c). However, if such an agency elects to provide these services, it shall provide both services. There is no requirement that prospective adoptive parents and birth parents use the same adoption agency for these services. If the agency has a policy that allows it to provide services only to members of specific groups, this policy shall be disclosed to families prior to the beginning of the assessment process.

(f) The department or the delegated county adoption agency shall perform the advice and assessment services specified in subdivisions (b) and (c) at no cost only in those cases where all of the following apply:

(1) The prospective adoptive parents are seeking the assessment because of the intended placement of a specific child of an identified birth parent.

(2) The advice and assessment services can be conducted prior to the placement of the child.

(3) The department or the delegated county adoption agency can provide the services without delaying any mandated service.

(4) The fees specified in subdivision (a) of Section 224.47 would be waived because they would cause economic hardship to the prospective adoptive parents and would be detrimental to the welfare of the adopted child as determined by the department.

(g) The department shall study the effect of the processes described in subdivisions (a) and (f), inclusive, on the child and the parties to the adoption. The study shall provide and evaluate comparative data using information regarding the factors specified in this subdivision, which shall cover a period prior to, and concurrent with, the implementation of this section for adoptions conducted under this section or pursuant to other statutory provisions. These factors include the number and percentage of birth parents actually receiving counseling, the number of petitions in which a birth parent seeks the withdrawal of consent to adoption, the number of occasions in which the birth parent's consent is not taken at the initial interview under provisions of this section and the reasons, the number of adoptions commenced and completed under this section and pursuant to other statutory provisions, the number of requests for return of a child by a birth parent after placement but

before consent, the amount of time spent by the state in completing the home study, and the number of negative home studies presented to the court.

The Independent Adoption Preplacement Program authorized by this section shall be deemed to be successful if there is a 10 percent reduction in the number of withdrawals of consent to adoption in cases commenced under this section, and if at least 25 percent of all nonagency adoptions are commenced pursuant to this section at the time the evaluation is completed.

The department shall report its findings to the Legislature on or before January 1, 1993.

(h) The department may adopt emergency regulations in accordance with Chapter 3.5 (commencing with Section 11340) of Division 3 of Title 2 of the Government Code to implement this section.

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

SEC. 4. Section 224.73 of the Civil Code is amended to read:

224.73. (a) The department shall adopt a statement to be presented to the birth parents at the time the consent to adoption is signed and to prospective adoptive parents at the time of the home study which shall, in a clear and concise manner, in words calculated to assure the confidence of the birth parents in the integrity of the adoption process, communicate to the birth parent of a child who is the subject of an adoption petition all of the following facts:

(1) It is in the best interest of the child that the birth parents keep the department informed of any health problems that the parent develops that could affect the child.

(2) It is extremely important that the birth parent keep his or her address current with the department in order to permit a response to any inquiries to the department or delegated county adoption agency concerning medical or social history.

(3) Section 229.40 of the Civil Code authorizes a person who has been adopted and who attains the age of 21 years to petition the department to obtain the name and address of his or her birth parents. Consequently, it is of the utmost importance that the birth parent indicate whether or not he or she wishes his or her name and address to be so disclosed by checking the appropriate box provided on the form.

(4) The birth parent may change his or her decision as to whether or not he or she wishes his or her name and address disclosed, at any time, by sending a notarized letter to that effect, by certified mail, return receipt requested, to the department.

(5) The consent will be filed in the office of the county clerk of the county in which the adoption takes place. The file is not open to inspection by any persons other than the parties to the adoption proceedings, their attorneys, and the department, except upon order of the judge of the superior court.

(b) The department shall adopt a form to be signed by the birth parents at the time the consent to adoption is signed which shall provide as follows:

"Section 229.40 of the Civil Code authorizes a person who has been adopted and who attains the age of 21 years to petition the State Department of Social Services or the licensed adoption agency that joined in the petition for his or her adoption to obtain the name and address of his or her birth parents. Indicate by checking one of the boxes below whether or not you wish your name and address to be so disclosed:

☐ YES
☐ NO
☐ UNCERTAIN AT THIS TIME; WILL NOTIFY AGENCY AT LATER DATE"

SEC. 5. Section 229.60 of the Civil Code is amended to read:

229.60. (a) Notwithstanding any other provision of law, if an adoptee who has attained the age of 21 years has filed his or her current address, a written request for contact with any biological sibling whose existence is known to him or her, and a written waiver of his or her rights with respect to the disclosure of his or her name and address to the sibling, with the department or the adoption agency that joined in the petition for his or her adoption, and any such biological sibling of that person who has attained the age of 21 years also has filed his or her current address, made such a request for contact, and filed a written waiver, if applicable, the department or the agency shall release to each of them the other's name and address. Upon inquiry, and upon proof that a person is the sibling of an adoptee who has filed a waiver pursuant to this section, the department or agency may advise him or her that such a waiver has been filed by the adoptee. The department or an agency may charge a reasonable fee, not to exceed fifty dollars ($50), for providing the service required by this section.

(b) An adoptee may revoke a waiver executed pursuant to this section by giving written notice to that effect to the department or agency.

(c) The department shall adopt a form for the request authorized by this section, which shall provide for an affidavit to be executed by persons seeking to employ the procedure authorized by this section that to the best of his or her knowledge he or she is an adoptee or a sibling of an adoptee; the form also shall contain a notice of an adoptee's rights pursuant to subdivision (b) and a statement that information will be disclosed only if there is a currently valid waiver on file with the department or agency. The department may adopt regulations requiring any additional means of identification from a person making a request pursuant to this section as it deems necessary, and for the obtaining of the consent of the birth parents of the adoptee and the sibling in order to make the disclosure

authorized by this section in any case in which the sibling remained in the custody and control of the birth parents until he or she attained the age of 18 years.

(d) The department shall not solicit the execution of a waiver authorized by this section; however, the department shall announce the availability of the procedure authorized by this section, utilizing a means of communication appropriate to effectively inform the public.

SEC. 6. Section 1522.4 of the Health and Safety Code is amended to read:

1522.4. (a) In addition to any other requirements of this chapter and except for foster family homes, small family homes, and certified family homes of foster family agencies, all of the following apply to any community care facility providing 24-hour care for children:

(1) The facility shall have one or more facility managers. "Facility manager," as used in this section, means a person on the premises with the authority and responsibility necessary to manage and control the day-to-day operation of a community care facility and supervise the clients. The facility manager, licensee, and administrator, or any combination thereof, may be the same person provided he or she meets all applicable requirements. If the administrator is also the facility manager for the same facility, this person shall be limited to the administration and management of only one facility.

(2) The facility manager shall have at least one year of experience working with the client group served, or equivalent education or experience, as determined by the department.

(3) A facility manager shall be at the facility at all times when one or more clients are present. To ensure adequate supervision of clients when clients are at the facility outside of their normal schedule, a current telephone number where the facility manager can be reached shall be provided to the clients, licensing agency, school, and any other agency or person as the department determines is necessary. The facility manager shall instruct these agencies and individuals to notify him or her when clients will be returning to the facility outside of the normal hours.

(4) The Legislature intends to upgrade the quality of care in licensed facilities. For the purposes of Sections 1533 and 1534, the licensed facility shall be inspected and evaluated for quality of care at least once each year, without advance notice and as often as necessary, without advance notice, to ensure the quality of care being provided.

Paragraphs (1), (2), and (3) shall apply only to new facilities licensed for six or fewer children which apply for a license after January 1, 1985, and all other new facilities licensed for seven or more children which apply for a license after January 1, 1988. Existing facilities licensed for seven or more children shall comply by January 1, 1989.

(b) No employee of the state or county employed in the

administration of this chapter or employed in a position that is in any way concerned with facilities licensed under this chapter shall hold a license or have a direct or indirect financial interest in a facility described in subdivision (a).

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

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

(c) A licensed private full-service or noncustodial adoption agency, as respectively defined in subdivisions (h) and (*l*) of Section 220.20 of the Civil Code, which advises a person as specified in Section 224.50 of the Civil Code or which assesses the prospective adoptive family as specified in subdivision (c) of Section 224.50 of the Civil Code shall not have received financial contributions in excess of five hundred dollars ($500) or volunteer or paid services from the adoption petitioners, the attorneys advising the petitioners in connection with the adoption, members of the immediate families of the petitioners or the attorneys advising them in connection with the adoption, or members or employees of any such attorney's firm during a one-year period immediately prior to the beginning of the advice or assessment services and shall not accept financial contributions in excess of five hundred dollars ($500) or volunteer or paid services from any of those persons for at least one year after the advice or assessment service is completed. This does not include fees for services charged by the agency. This subdivision shall be inoperative on January 1, 1994.

SEC. 7. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order that this act may take effect before July 1, 1991, it is necessary that this act take effect immediately.

CHAPTER 698

An act to amend Item 3860-011-144 of Section 2.00 of the Budget Act of 1991, relating to water, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 7, 1991. Filed with Secretary of State October 9, 1991.]

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

SECTION 1. Pursuant to Section 13466 of the Water Code, the State Water Resources Control Board may make loans in an amount of not more than thirty million two hundred ten thousand dollars ($30,210,000) from the Agricultural Drainage Water Account in the 1986 Water Conservation and Water Quality Bond Fund created pursuant to Section 13453 of that code, to the following local agencies to aid in the construction of drainage water management units for the treatment, storage, or disposal of agricultural drainage water and for related feasibility studies as follows:

	Agency	Project	Amount
(a)	Santa Ana Watershed Project Authority	Construction of a salinity and nitrate removal facility	not more than $13,310,000
(b)	City of Sanger	Construction of a DBCP wellhead treatment facility	$ 5,300,000
(c)	Eastern Municipal Water District	Construction of a salinity removal facility	not more than $11,600,000

SEC. 2. Item 3860-011-144 of Section 2.00 of the Budget Act of 1991 (Chapter 118 of the Statutes of 1991), is amended to read:

3860-011-144—For transfer by the Controller from the California Water Fund to the General Fund. Any remaining revenues left in the California Water Fund, after funding for the Water Resources Drainage Treatment Program-San Joaquin Drain pursuant to Section 12938 of the Water Code, Budget Act appropriations, and the allocations set forth in Provision 1, shall be transferred to the General Fund by June 30, 1992.

Provisions:

1. The department is requested to transfer any available revenues from State Water Project funds to the California Water Fund. Notwithstanding any other provision of law, the order of

priority for allocation from the California Water Fund shall be: (a) for state operations of the Department of Water Resources as appropriated in Item 3860-001-144 ($1,000,000), (b) transfer to the Delta Flood Protection Fund to fund a transfer of $2,000,000 to the General Fund as provided by Item 3860-005-176, (c) transfer to the Delta Flood Protection Fund sufficient funds to support state operation and local assistance appropriations of up to $10,000,000 to be spent in accordance with the provisions of the Delta Flood Protection Act of 1988 (Chapter 28, Statutes of 1988) as provided by Items 3860-001-176 and 3860-101-176, (d) transfer to the Environmental Water Fund to fund $199,000 in expenditures for the Environmental Water Program from Item 3860-001-244, (e) transfer to the Environmental Water Fund to fund $1,000,000 in expenditures for the Water Quality Program from Item 3860-001-244, and (f) transfer to the Environmental Water Fund to fund $6.8 million in expenditures for the Environmental Water Program from Item 3860-101-244.

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

In order to facilitate the management of water resources at the earliest possible time, thereby protecting the public health and safety, it is necessary that this act take effect immediately.

CHAPTER 699

An act to add Chapter 13.8 (commencing with Section 8897) to Division 1 of Title 2 of the Government Code, relating to earthquake protection.

[Approved by Governor October 7, 1991. Filed with Secretary of State October 9, 1991.]

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

SECTION 1. Chapter 13.8 (commencing with Section 8897) is added to Division 1 of Title 2 of the Government Code, to read:

CHAPTER 13.8. RESIDENTIAL STRENGTHENING-SEISMIC SAFETY

Article 1. General Provisions and Legislative Findings

8897. (a) The Legislature finds and declares all of the following:

(1) There exists a serious threat of homes in the State of California falling or sliding off of foundations during an earthquake due to lack of anchorage to the foundation or due to cripple wall failure. Over 23,000 homes were damaged or destroyed during the Loma Prieta earthquake of October 17, 1989, and one of the main causes of damage was the lack of anchorage of these homes to their foundations or as a result of cripple wall bracing.

(2) The building codes used in the State of California did not require homes to be anchored to their foundations until on or about 1949, and some of California's local jurisdictions did not enforce the anchor bolting requirements until as late as 1958.

(3) As a result of the practices set forth in paragraphs (1) and (2), there are approximately 1,200,000 homes in the State of California which may not be bolted or anchored to their foundations or do not have adequate cripple wall bracing.

(4) There exists a serious threat of gas leaks followed by fire and explosion from water heaters that overturn, damaging the plumbing or electrical wiring during an earthquake due to the lack of adequate anchoring, strapping, or bracing.

(b) Therefore, it is the goal of the Legislature to ensure that all homes be bolted or anchored to their foundations, have adequate bracing of the cripple walls, and have the water heaters braced, strapped, or anchored to reduce earthquake hazards.

(c) The Legislature further finds and declares that the disclosure of the earthquake hazard deficiencies is designed to provide the buyer with the knowledge of possible vulnerabilities associated with the dwelling being purchased. It is the intent of the Legislature that the seller be able to complete the report without having to consult with any design professional.

Article 2. Earthquake Evaluations

8897.1. (a) After July 1, 1992, the transferor of any real property containing any residential dwelling built prior to January 1, 1960, with one to four living units of conventional light-frame construction, as defined in Chapter 25 of the 1991 Edition of the Uniform Building Code of the International Conference of Building Officials, shall, as soon as practicable before the transfer, deliver to the purchaser or transferee a copy of the "Homeowner's Guide to Earthquake Preparedness" published pursuant to Section 10149 of the Business and Professions Code and complete the earthquake hazards disclosure regarding the property. The earthquake hazards disclosure shall clearly indicate whether the transferor has actual knowledge that the dwelling has any of the deficiencies listed in

Section 8897.2.

(b) The transferor shall make the earthquake hazards disclosure as soon as practicable before the transfer of title in the case of a sale or exchange, or prior to execution of the contract where the transfer is by a real property sales contract, as defined in Section 2985. For purposes of this subdivision, the disclosure may be made in person or by mail to the transferee, or to any person authorized to act for him or her in the transaction, or to additional transferees who have requested delivery from the transferor in writing.

(c) This article does not apply to any of the following:

(1) Transfers which are required to be preceded by the furnishing to a prospective transferee of a copy of a public report pursuant to Section 11018.1 of the Business and Professions Code.

(2) Transfers pursuant to court order, including, but not limited to, transfers ordered by a probate court in the administration of an estate, transfers pursuant to a writ of execution, transfers by a trustee in bankruptcy, transfers by eminent domain, or transfers resulting from a decree for specific performance.

(3) Transfers to a mortgagee by a mortgagor in default, transfers to a beneficiary of a deed of trust by a trustor in default, transfers by any foreclosure sale after default, transfers by any foreclosure sale after default in an obligation secured by a mortgage, or transfers by a sale under a power of sale after a default in an obligation secured by a deed of trust or secured by any other instrument containing a power of sale and, any subsequent transfer by a mortgagor or beneficiary of a deed of trust who accepts a deed in lieu of foreclosure or purchases the property at a foreclosure sale.

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

(5) Transfers from one coowner to one or more coowners.

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

(7) Transfers between spouses resulting from a decree of dissolution of a marriage, from a decree of legal separation, or from a property settlement agreement incidental to either of those decrees.

(8) Transfers by the Controller in the course of administering the Unclaimed Property Law provided for in Chapter 7 (commencing with Section 1500) of Title 10 of Part 3 of the Code of Civil Procedure.

(9) Transfers under the provisions of Chapter 7 (commencing with Section 3691) or Chapter 8 (commencing with Section 3771) of Part 6 of Division 1 of the Revenue and Taxation Code.

(10) Transfers for which the transferee has agreed in writing that the dwelling will be demolished within one year of the date of transfer.

(d) This article does not apply to:

(1) Dwellings with a concrete slab foundation.

(2) Dwellings with no foundation system or with a wood foundation that rests directly on the ground.

8897.2. (a) The transferor shall be required to disclose any of the following deficiencies which are within the transferor's actual knowledge and material to the transaction, and which may increase a dwelling's vulnerability to earthquake damage:

(1) The absence of anchor bolts securing the sill plate to the foundation.

(2) The existence of perimeter cripple walls that are not braced with plywood, blocking, or diagonal metal or wood braces.

(3) The existence of a first-story wall or walls that are not braced with plywood or diagonal metal or wood braces.

(4) The existence of a perimeter foundation composed of unreinforced masonry.

(5) The existence of unreinforced masonry dwelling walls.

(6) The existence of a habitable room or rooms above a garage.

(7) The existence of a water heater which is not anchored, strapped, or braced.

(b) The transferor shall be required to disclose any material information within the transferor's actual knowledge regarding any corrective measures or improvements taken to address the items listed in subdivision (a).

8897.3. (a) For the purposes of this chapter, if it is determined that retrofit work is appropriate to address potential deficiencies listed in Section 8897.2, the following standards shall be used:

(1) The foundation anchor bolt requirements of subdivision (f) of Section 2907 of Chapter 29 of the 1991 Edition of the Uniform Building Code of the International Conference of Building Officials, or any local government modification which establishes equivalent or higher requirements.

(2) The cripple wall bracing requirements of paragraph (4) of subdivision (g) of Section 2517 of Chapter 25 of the 1991 Edition of the Uniform Building Code of the International Conference of Building Officials, or any local government modification which establishes equivalent or higher requirements.

(3) The water heater bracing, anchoring, or strapping requirements to resist falling or horizontal displacement due to earthquake motion of Section 19215 of the Health and Safety Code.

(b) Any qualified historical building or structure, as defined pursuant to Section 18955 of the Health and Safety Code, shall be permitted to utilize alternatives to the requirements of this section, as provided by the State Historical Building Code (Part 2.7 (commencing with Section 18950) of Division 13 of the Health and Safety Code) and the regulations issued pursuant thereto.

8897.4. No transfer of title shall be invalidated on the basis of a failure to comply with this chapter.

8897.5. For the purposes of this chapter, the duty of the real estate licensee shall be limited to providing to the seller a copy of the Homeowner's Guide to Earthquake Preparedness for delivery to the transferee pursuant to Section 2079.8 of the Civil Code.

CHAPTER 700

An act to amend, repeal, and add Section 2627.7 of the Unemployment Insurance Code, relating to disability compensation.

[Approved by Governor October 7, 1991 Filed with Secretary of State October 9, 1991]

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

SECTION 1. Section 2627.7 of the Unemployment Insurance Code is amended to read:

2627.7. (a) If an individual, pursuant to orders of his or her physician, receives treatment in a hospital surgical unit or a surgical clinic which requires a stay of less than 24 hours, or receives treatment in an institution that operates under the auspices of a postsurgical recovery care pilot designation pursuant to Section 1250.9 of the Health and Safety Code, any unexpired full days of the waiting period required by subdivision (b) of Section 2627 shall be waived, provided the individual is disabled for a period of eight days or more during the disability benefit period as a result of the treatment.

(b) In addition to the certificate required by Section 2706.1, the waiver provided by this section shall be supported by both of the following:

(1) A certificate stating the day the individual received the treatment, signed by an appropriate official of the hospital or clinic. However, if it is not practical to obtain this certificate, the department may use any other means it deems reasonable to obtain verification of the information required by this paragraph.

(2) A certificate that the individual is disabled for eight days or more as a result of the treatment, signed by his or her physician.

(c) As used in this section:

(1) "Hospital" means:

(A) Within the State of California, any institution which is licensed by the State Department of Health Services as a general acute care hospital, as defined in Section 1250 of the Health and Safety Code.

(B) Outside the State of California, any institution in another state or foreign country, or in a territory or possession of any country, which is either:

(i) Licensed as a hospital pursuant to the statutes or laws of that state, foreign country, or territory or possession of any country.

(ii) Operated pursuant to law with organized facilities for the care and treatment of sick and injured persons, if that state, foreign country, or territory or possession of any country does not have statutes or laws concerning requirements for licensing hospitals.

(C) Any institution operated as a hospital by the United States government or a duly authorized agency thereof.

(2) "Surgical clinic" means a clinic which provides treatment for patients who remain less than 24 hours, is not a part of and does not operate under the license of a hospital, and is any of the following:

(A) Licensed by the State Department of Health Services under paragraph (1) of subdivision (b) of Section 1204 of the Health and Safety Code.

(B) Exempt from licensing under subdivision (b), (c), (d), (f), or (i) of Section 1206 of the Health and Safety Code.

(C) Certified to participate in the federal Medicare program as an "ambulatory surgical center" as defined in Section 416.2 of Title 42 of the Code of Federal Regulations.

For purposes of this paragraph, a surgical clinic does not include the offices of private physicians as defined in Section 3209.3 of the Labor Code in individual or group practice.

(3) "Surgical unit" means a unit located in or operating under the license of a hospital and providing treatment for patients who remain less than 24 hours.

(4) "Orders of his or her physician" means a court order or physician's or health officer's certificate or order of a physician as defined in Section 3209.3 of the Labor Code or order of a duly authorized medical officer of any facility of the United States government or order of any member of any one of the professions enumerated in Section 3209.3 of the Labor Code duly licensed by and practicing within the scope of such license in any state outside this state or in any foreign country, or in a territory or possession of any country.

(d) This section shall remain in effect only until January 1, 1995, and as of that date is repealed.

SEC. 1.5. Section 2627.7 of the Unemployment Insurance Code is amended to read:

2627.7. (a) If an individual, pursuant to orders of his or her physician, receives treatment in a hospital surgical unit or a surgical clinic which requires a stay of less than 24 hours, or receives treatment in an institution that operates under the auspices of a postsurgical recovery care pilot designation pursuant to Section 1250.9 of the Health and Safety Code, any unexpired full days of the waiting period required by subdivision (b) of Section 2627 shall be waived, provided the individual is disabled for a period of eight days or more during the disability benefit period as a result of the treatment. The department may use any means it deems reasonable to obtain or verify the information required by this section.

(b) As use in this section:

(1) "Hospital" means:

(A) Within the State of California, any institution which is licensed as a general hospital by the State Department of Health Services under Section 1253 of the Health and Safety Code or licensed by the State Department of Health Services as a general acute care hospital, as defined in Section 1250 of the Health and Safety Code.

(B) Outside the State of California, any institution in another state or foreign country, or in a territory or possession of any country, which is either:

(i) Licensed as a hospital pursuant to the statutes or laws of that state, foreign country, or territory or possession of any country.

(ii) Operated pursuant to law with organized facilities for the care and treatment of sick and injured persons, if that state, foreign country, or territory or possession of any country does not have statutes or laws concerning requirements for licensing hospitals.

(C) Any institution operated as a hospital by the United States government or a duly authorized agency thereof.

(2) "Surgical clinic" means a clinic which provides treatment for patients who remain less than 24 hours, is not a part of and does not operate under the license of a hospital, and is any of the following:

(A) Licensed by the State Department of Health Services under paragraph (1) of subdivision (b) of Section 1204 of the Health and Safety Code, or under Section 1205 of the Health and Safety Code.

(B) Exempt from licensing under subdivision (b), (c), (d), (f), or (i) of Section 1206 of the Health and Safety Code.

(C) Certified to participate in the Federal Medicare program as an "ambulatory surgical center" as defined in Section 416.2 of Title 42 of the Code of Federal Regulations.

For purposes of this section, a surgical clinic does not include the offices of private physicians as defined in Section 3209.3 of the Labor Code in individual or group practice.

(3) "Surgical unit" means a unit located in or operating under the license of a hospital and providing treatment for patients who remain less than 24 hours.

(4) "Orders of his or her physician" means a court order or physician's or health officer's certificate or order of a physician as defined in Section 3209.3 of the Labor Code or order of a duly authorized medical officer of any facility of the United States government or order of any member of any one of the professions enumerated in Section 3209.3 of the Labor Code duly licensed by and practicing within the scope of such license in any state outside this state or in any foreign country, or in a territory or possession of any country.

(c) The amendments made to this section by the act adding this subdivision shall apply to periods of disability commencing on or after January 1, 1992.

(d) This section shall remain in effect only until January 1, 1995, and as of that date is repealed.

SEC. 2. Section 2627.7 is added to the Unemployment Insurance Code, to read:

2627.7. (a) If an individual, pursuant to orders of his or her physician, receives treatment in a hospital surgical unit or a surgical clinic which requires a stay of less than 24 hours, any unexpired full days of the waiting period required by subdivision (b) of Section 2627 shall be waived, provided the individual is disabled for a period of

eight days or more during the disability benefit period as a result of the treatment.

(b) In addition to the certificate required by Section 2706.1, the waiver provided by this section shall be supported by both of the following:

(1) A certificate stating the day the individual received the treatment, signed by an appropriate official of the hospital or clinic. However, if it is not practical to obtain this certificate, the department may use any other means it deems reasonable to obtain verification of the information required by this paragraph.

(2) A certificate that the individual is disabled for eight days or more as a result of the treatment, signed by his or her physician.

(c) As used in this section:

(1) "Hospital" means:

(A) Within the State of California, any institution which is licensed by the State Department of Health Services as a general acute care hospital, as defined in Section 1250 of the Health and Safety Code.

(B) Outside the State of California, any institution in another state or foreign country, or in a territory or possession of any country, which is either:

(i) Licensed as a hospital pursuant to the statutes or laws of that state, foreign country, or territory or possession of any country.

(ii) Operated pursuant to law with organized facilities for the care and treatment of sick and injured persons, if that state, foreign country, or territory or possession of any country does not have statutes or laws concerning requirements for licensing hospitals.

(C) Any institution operated as a hospital by the United States government or a duly authorized agency thereof.

(2) "Surgical clinic" means a clinic which provides treatment for patients who remain less than 24 hours, is not a part of and does not operate under the license of a hospital, and is any of the following:

(A) Licensed by the State Department of Health Services under paragraph (1) of subdivision (b) of Section 1204 of the Health and Safety Code.

(B) Exempt from licensing under subdivision (b), (c), (d), or (f) of Section 1206 of the Health and Safety Code.

(C) Certified to participate in the federal Medicare program as an "ambulatory surgical center" as defined in Section 416.2 of Title 42 of the Code of Federal Regulations.

For purposes of this paragraph, a surgical clinic does not include the offices of private physicians as defined in Section 3209.3 of the Labor Code in individual or group practice.

(3) "Surgical unit" means a unit located in or operating under the license of a hospital and providing treatment for patients who remain less than 24 hours.

(4) "Orders of his or her physician" means a court order or physician's or health officer's certificate or order of a physician as defined in Section 3209.3 of the Labor Code or order of a duly

authorized medical officer of any facility of the United States government or order of any member of any one of the professions enumerated in Section 3209.3 of the Labor Code duly licensed by and practicing within the scope of such license in any state outside this state or in any foreign country, or in a territory or possession of any country.

(d) This section shall become operative January 1, 1995.

SEC. 2.5. Section 2627.7 is added to the Unemployment Insurance Code, to read:

2627.7. (a) If an individual, pursuant to orders of his or her physician, receives treatment in a hospital surgical unit or a surgical clinic which requires a stay of less than 24 hours, any unexpired full days of the waiting period required by subdivision (b) of Section 2627 shall be waived, provided the individual is disabled for a period of eight days or more during the disability benefit period as a result of the treatment. The department may use any means it deems reasonable to obtain or verify the information required by this section.

(b) As used in this section:

(1) "Hospital" means:

(A) Within the State of California, any institution which is licensed as a general hospital by the State Department of Health Services under Section 1253 of the Health and Safety Code or licensed by the State Department of Health Services as a general acute care hospital, as defined in Section 1250 of the Health and Safety Code.

(B) Outside the State of California, any institution in another state or foreign country, or in a territory or possession of any country, which is either:

(i) Licensed as a hospital pursuant to the statutes or laws of that state, foreign country, or territory or possession of any country.

(ii) Operated pursuant to law with organized facilities for the care and treatment of sick and injured persons, if that state, foreign country, or territory or possession of any country does not have statutes or laws concerning requirements for licensing hospitals.

(C) Any institution operated as a hospital by the United States government or a duly authorized agency thereof.

(2) "Surgical clinic" means a clinic which provides treatment for patients who remain less than 24 hours, is not a part of and does not operate under the license of a hospital, and is any of the following:

(A) Licensed by the State Department of Health Services under paragraph (1) of subdivision (b) of Section 1204 of the Health and Safety Code, or under Section 1205 of the Health and Safety Code.

(B) Exempt from licensing under subdivision (b), (c), (d), (f), or (i) of Section 1206 of the Health and Safety Code.

(C) Certified to participate in the federal Medicare program as an "ambulatory surgical center" as defined in Section 416.2 of Title 42 of the Code of Federal Regulations.

For purposes of this section, a surgical clinic does not include the

offices of private physicians as defined in Section 3209.3 of the Labor Code in individual or group practice.

(3) "Surgical unit" means a unit located in or operating under the license of a hospital and providing treatment for patients who remain less than 24 hours.

(4) "Orders of his or her physician" means a court order or physician's or health officer's certificate or order of a physician as defined in Section 3209.3 of the Labor Code or order of a duly authorized medical officer of any facility of the United States government or order of any member of any one of the professions enumerated in Section 3209.3 of the Labor Code duly licensed by and practicing within the scope of such license in any state outside this state or in any foreign country, or in a territory or possession of any country.

(c) This section shall apply to periods of disability commencing on or after January 1, 1995.

(d) This section shall become operative January 1, 1995.

SEC. 3. Section 1.5 of this bill incorporates amendments to Section 2627.7 of the Unemployment Insurance Code proposed by both this bill and AB 540. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1992, (2) each bill amends Section 2627.7 of the Unemployment Insurance Code, and (3) this bill is enacted after AB 540, in which case Section 1 of this bill shall not become operative.

SEC. 4. Section 2.5 of this bill incorporates changes to Section 2627.7 of the Unemployment Insurance Code proposed by both this bill and AB 540. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1992, (2) each bill makes changes to Section 2627.7 of the Unemployment Insurance Code, and (3) this bill is enacted after AB 540, in which case Section 2 of this bill shall not become operative.

CHAPTER 701

An act to amend Sections 3203 and 3277 of the Public Resources Code, relating to oil and gas.

[Approved by Governor October 7, 1991. Filed with Secretary of State October 9, 1991.]

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

SECTION 1. Section 3203 of the Public Resources Code is amended to read:

3203. (a) The owner or operator of any well shall, before commencing the work of drilling the well, file with the supervisor or the district deputy a written notice of intention to commence drilling. Drilling shall not commence until approval is given by the

supervisor or the district deputy; if the supervisor or the district deputy fails to give the owner or operator written response to the notice within 10 working days from the date of receipt, that failure shall be considered as an approval of the notice and the notice shall, for the purposes and intents of this chapter, be deemed a written report of the supervisor. If operations have not commenced within one year of receipt of the notice, the notice shall be deemed canceled. The notice shall contain such pertinent data as the supervisor may require on printed forms supplied by the division or on other forms acceptable to the supervisor. The supervisor may require other pertinent information to supplement the notice.

(b) After the completion of any well, this section shall also apply, as far as may be, to the deepening or redrilling of the well, any operation involving the plugging of the well, or any operations permanently altering in any manner the casing of the well. The number or designation of any well, and the number or designation specified for any well in a notice filed as required by this section, shall not be changed without first obtaining a written consent of the supervisor.

(c) If an owner or operator has failed to comply with an order of the supervisor, the supervisor may deny approval of proposed well operations until the owner or operator brings its existing well operations into compliance with the order.

SEC. 2. Section 3277 of the Public Resources Code is amended to read:

3277. The Governor is hereby designated as the official representative of the State of California on the Interstate Oil Compact Commission provided for in the compact ratified by this article. The Governor shall exercise and perform for the State of California all the powers and duties imposed by the compact upon the representative to the Interstate Oil Compact Commission. The Director of Conservation is hereby designated to be the assistant representative and he or she shall act as the official representative of the State of California on the Interstate Oil Compact Commission when the authority to so act is delegated to him or her by the Governor. In his or her absence, the State Oil and Gas Supervisor is hereby designated to be the assistant representative. The Executive Officer of the State Lands Commission is hereby designated to be the associate representative. In addition, both the assistant representative and the associate representative shall perform such other duties as the Governor may designate which are necessary to enable the State of California to cooperate fully in accomplishing the objectives of the compact.

CHAPTER 702

An act to add Section 14132.41 to the Welfare and Institutions Code, relating to Medi-Cal.

[Approved by Governor October 7, 1991. Filed with Secretary of State October 9, 1991.]

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

SECTION 1. Section 14132.41 is added to the Welfare and Institutions Code, to read:

14132.41. Services provided by a certified nurse practitioner shall be covered under this chapter to the extent mandated by federal law, and subject to utilization controls. The department shall permit a certified family nurse practitioner or a certified pediatric nurse practitioner to bill Medi-Cal independently for his or her services. If a certified nurse practitioner chooses to bill Medi-Cal independently for his or her services, the department shall make payment directly to the certified nurse practitioner.

CHAPTER 703

An act to add Section 199.52 to the Health and Safety Code, relating to AIDS.

[Approved by Governor October 7, 1991 Filed with Secretary of State October 9, 1991]

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

SECTION 1. Section 199.52 is added to the Health and Safety Code, to read:

199.52. (a) In enacting this section the Legislature finds and declares:

(1) It is in the interest of the people of California to develop a vaccine which will prevent the infection of HIV, the agent which causes AIDS.

(2) In order to develop that vaccine, a prototype vaccine must be first given to HIV-negative people to determine the following:

(A) The vaccine's toxicity.

(B) The vaccine's efficacy.

(C) The human immune response to the vaccine.

(3) These studies are currently impossible because vaccine manufacturers fear that, by inoculating HIV-negative individuals with an experimental vaccine, they will elicit a positive immune response as measured by an enzyme linked immunosorbent assay (ELISA), western blot or other federal Food and Drug

Administration approved in vitro diagnostic test, thereby placing vaccine volunteers at risk for denial of health or life insurance by insurance carriers as a consequence of their participation.

(4) Insurers need a reliable mechanism by which they can verify the insurability of a vaccine trial participant.

(b) No health care service plan, disability insurer, nonprofit hospital service plan, self-insured employee welfare benefit plan, or life insurer may withhold any settlement or coverage of an individual solely because of his or her participation in an AIDS/HIV vaccine clinical trial studied under an investigational new drug application effective pursuant to Section 312 of Title 21 of the Code of Federal Regulations, or Section 26679.

(c) The sponsor of any such trial shall make a confidential certificate with all the necessary particulars, which shall be determined by the State Department of Health Services, for each enrollee and then submit it to the State Department of Health Services, which shall endorse it and return it to the vaccine recipient. A copy of this confidential certificate shall be kept on file indefinitely by both the study sponsor and the State Department of Health Services.

(d) Release of a confidential certificate shall be by written authorization of the enrollee named in the certificate. If the enrollee is unable to provide the written authorization, a person designated in the certificate by the enrollee may provide the written authorization. The written authorization shall include the name of the person or entity to whom the disclosure would be made.

Disclosure as used in this section means to release, transfer, disseminate or otherwise communicate all or part of any confidential certificate orally, in writing, or by electronic means to any person or entity.

CHAPTER 704

An act to amend Sections 105, 106, 120, 122, 130, 131, and 132 of, and to add Sections 107, 118, and 123 to, the Sacramento Area Flood Control Agency Act (Chapter 510 of the Statutes of 1990), relating to the Sacramento Area Flood Control Agency.

[Approved by Governor October 7, 1991. Filed with Secretary of State October 9, 1991.]

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

SECTION 1. Section 105 of the Sacramento Area Flood Control Agency Act (Chapter 510 of the Statutes of 1990) is amended to read:

Sec. 105. (a) Notwithstanding any other provision of law, all assessments, reassessments, and taxes levied by the agency may be collected together with, and not separately from, taxes for county

purposes. Any county which is a member of the agency may collect, at the request of the agency, all assessments, reassessments, and special taxes levied by the agency and shall deposit those revenues into the Sacramento County Treasury to the credit of the agency.

(b) Each county may require that the amount to be collected be increased to include a proportionate amount of the county's reasonable collection and administrative costs, not to exceed ten dollars ($10) per installment for each lot or parcel, as reimbursement for expenses incurred by the county in collecting the assessment, reassessment, or special tax.

SEC. 2. Section 106 of the Sacramento Area Flood Control Agency Act (Chapter 510 of the Statutes of 1990) is amended to read:

Sec. 106. Notwithstanding any other provision of law, any assessment or reassessment levied pursuant to this act may be apportioned on the basis of land use category, proportionate storm water runoff, relative hazard of flooding, infrastructure protection, or other reasonable basis, separately or in combination, as determined by the board. All lots and parcels shall be conclusively presumed to benefit from the projects being financed in proportion to that apportionment.

SEC. 3. Section 107 is added to the Sacramento Area Flood Control Agency Act (Chapter 510 of the Statutes of 1990), to read:

Sec. 107. Notwithstanding any other provision of law, the board may include within the agency's annual budget a general unappropriated reserve fund not to exceed 25 percent of the total appropriations contained in the agency's budget, exclusive of all items for bond interest and redemption, and the general unappropriated reserve. The reserve fund may be used for emergencies, replacements, or other lawful purposes of the agency.

SEC. 4. Section 118 is added to the Sacramento Area Flood Control Agency Act (Chapter 510 of the Statutes of 1990), to read:

Sec. 118. (a) Upon adopting a resolution pursuant to Section 117, the agency shall record a notice of assessment whereupon the assessment shall attach as a lien on the property assessed.

(b) From the date of the recordation of the notice of assessment, each special assessment levied under this chapter is a lien on the land on which it is levied. This lien is paramount to all other liens, except prior assessments and taxation. Unless sooner discharged, the lien continues for 10 years from the date of the recordation or, if bonds are issued to represent the assessment, until four years after the date on which the last installment on the bonds or the last principal coupon attached to the bonds is due. All persons have constructive notice of this lien from the date of the recordation.

SEC. 4.5. Section 120 of the Sacramento Area Flood Control Agency Act (Chapter 510 of the Statutes of 1990) is amended to read:

Sec. 120. The validity of any assessment levied or bond issued under this chapter shall not be contested in any action or proceeding unless the action or proceeding is commenced within 30 days after the assessment is levied pursuant to Section 117. Any appeal from a

final judgment in such an action or proceeding shall be perfected within 30 days after the entry of judgment.

SEC. 5. Section 122 of the Sacramento Area Flood Control Agency Act (Chapter 510 of the Statutes of 1990) is amended to read:

Sec. 122. After one or more districts have been created and authorized to levy assessments pursuant to this chapter, the board may, by resolution, provide for the levy of the assessments using the method for apportioning the assessment and for setting the rate of the assessment as set out in the report confirmed pursuant to Section 117. The clerk of the agency shall file a list of all parcels subject to assessments levied pursuant to this chapter and the amount of the assessment or assessments levied against each parcel, with the county auditor on or before August 10 of each tax year. The assessments shall be collected in the same manner as ordinary property taxes are collected and shall be subject to the same penalties and the same procedure and sale in case of delinquency as provided for ad valorem taxes.

SEC. 5.2. Section 123 is added to the Sacramento Area Flood Control Agency Act (Chapter 510 of the Statutes of 1990), to read:

Sec. 123. (a) In the event of nonpayment of any assessment levied pursuant to this chapter, and not later than four years after the due date of the last installment of principal, as a cumulative remedy, the amount when due and delinquent may, by order of the board, be collected pursuant to an action brought in the superior court to foreclose the lien.

(b) The lien of an assessment levied pursuant to this chapter on tax-deeded land may be foreclosed in the same manner as the foreclosure of other real property. The action shall be brought in the name of the agency.

(c) The costs of the action shall be fixed and allowed by the court and shall include reasonable attorney's fees, interest, penalties, and other charges and advances as provided by this chapter. The costs shall be included in the judgment. The amount of penalties, costs, and interest due shall be calculated up to the date of judgment.

(d) The court may adjudge and decree a lien against the lot or parcel of land covered by the assessment for the amount of the judgment and may order the premises to be sold on execution as in the sale of other real estate by the process of the court, with the same rights of redemption.

(e) The board may, by resolution adopted prior to the issuance of bonds, covenant for the benefit of bondholders to commence and diligently prosecute to completion any foreclosure action regarding delinquent installments of any assessments or reassessments that secure the bonds that are to be issued, or to employ a trustee to do so on behalf of the bondholders.

SEC. 5.4. Section 130 of the Sacramento Area Flood Control Agency Act (Chapter 510 of the Statutes of 1990) is amended to read:

Sec. 130. The board may sell bonds or notes of the agency to finance projects as set out in the report confirmed pursuant to

Section 117. The board shall authorize the issuance of bonds by adoption of a resolution which provides for all of the following:

(a) The denominations, form, and registration provisions of the bonds.

(b) The manner of execution of the sale of the bonds.

(c) The par amount of the bonds to be sold.

(d) The appointment of the Sacramento County Treasurer or one or more banks or trust companies within the state having the necessary trust powers as trustee, fiscal agent, paying agent, or bond registrar.

(e) The execution of a document or indenture securing the bonds.

(f) The pledge or assignment of the designated assessment revenues to the repayment of the bonds.

(g) The interest rate to be borne by the bonds.

(h) Any other terms and conditions determined to be necessary by the board.

SEC. 6. Section 131 of the Sacramento Area Flood Control Agency Act (Chapter 510 of the Statutes of 1990) is amended to read:

Sec. 131. The bonds shall be signed by the chairperson of the board, and countersigned by the Sacramento County Treasurer. The bonds may be authenticated by a paying agent selected by the board, and the signatures of the chairman and Sacramento County Treasurer may be facsimile signatures. In case any officer whose signature appears on the bonds shall cease to be an officer at any time, the signature shall nevertheless be valid and sufficient for all purposes.

SEC. 7. Section 132 of the Sacramento Area Flood Control Agency Act (Chapter 510 of the Statutes of 1990) is amended to read:

Sec. 132. The board may sell bonds pursuant to this chapter at public or private sale at not less than 95 percent of par value. The proceeds of the sale of the bonds shall be placed in the treasury of Sacramento County to the credit of the agency and the issuing assessment district, and the proper record of the transaction shall be placed upon the books of the Sacramento County treasury. The bond proceeds shall be used exclusively to finance or refinance projects and to pay incidental expenses pursuant to the report confirmed pursuant to Section 117.

SEC. 8. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because this act is in accordance with the request of a local agency or school district which desired legislative authority to carry out the program specified in this act. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 705

An act to add Chapter 7.1 (commencing with Section 25620) to Division 15 of the Public Resources Code, relating to air quality.

[Approved by Governor October 7, 1991. Filed with Secretary of State October 9, 1991.]

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

SECTION 1. Chapter 7.1 (commencing with Section 25620) is added to Division 15 of the Public Resources Code, to read:

CHAPTER 7.1. HARVEY CLEAN FUEL AND CAMPUS RIDESHARE ACT

25620. This chapter shall be known and may be cited as the Harvey Clean Fuel and Campus Rideshare Act.

25621. The Legislature finds and declares that air pollution in California remains a significant threat to public health and the environment, and therefore, the University of California and the California State University, in their continuing efforts to improve the state's air quality and traffic management, should consider the unique opportunity to improve transportation by implementing innovative and efficient commute management and ridesharing. It is, therefore, the intent of the Legislature, in enacting this chapter, to direct the State Energy Resources Conservation and Development Commission to develop and submit recommendations to the Legislature for the creation of a program enabling the University of California and the California State University to purchase new medium-duty shuttle buses which meet federal safety standards and are primarily fueled by methanol, ethanol, electricity, compressed natural gas, propane, or other low-emission, clean-burning fuels.

25622. (a) The commission, in consultation with the State Air Resources Board, shall develop recommendations for the establishment of a program of technology development and financial assistance to be implemented by the commission on campuses of the University of California and the California State University which choose to participate, the purpose of which shall be to expand the use of alternative fuels in medium-duty vehicles as a means of improving air quality, assuring the state's energy security, and increasing the competitiveness of fuel markets.

(b) The commission shall develop recommendations on both of the following:

(1) A demonstration of the technological and economic feasibility and environmental impacts of utilizing alternative fuels in medium-duty vehicles.

(2) Technical and financial assistance for public and private

transit operators for the acquisition, operation, and maintenance of new, alternative-fueled, medium-duty transit buses.

(c) As used in this section, "medium-duty vehicle" means a vehicle between 10,000 and 26,000 pounds, capable of carrying at least 15 passengers.

(d) The program recommendations developed pursuant to this chapter shall provide for the maximum feasible financial and technical participation of government agencies and private industry.

(e) In developing the program recommendations required pursuant to this chapter, the commission shall consider the feasibility and cost-effectiveness of integrating a campus alternative-fueled, medium-duty transit bus program with the commission's Safe Schoolbus Fuel Efficiency Demonstration Program established in Part 10.7 (commencing with Section 17910) of the Education Code.

(f) The commission shall submit its recommendations to the Legislature by March 1, 1992.

CHAPTER 706

An act to add Division 12.9 (commencing with Section 19500) to the Public Resources Code, relating to solid waste.

[Approved by Governor October 7, 1991. Filed with Secretary of State October 9, 1991]

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

SECTION 1. Division 12.9 (commencing with Section 19500) is added to the Public Resources Code, to read:

DIVISION 12.9. FIBERGLASS RECYCLED CONTENT ACT OF 1991

CHAPTER 1. FINDINGS AND DEFINITIONS

19500. The Legislature finds and declares all of the following:

(a) Recycling of glass sold in the state benefits the state through reduction in the need for solid waste landfills, more efficient use of energy in manufacturing, and development of an economy more efficient in its use of secondary materials.

(b) Because of the expansion of recycling collection programs in the state, there is a need to aggressively develop new markets for scrap glass.

(c) The use of scrap glass in the manufacture of fiberglass products sold in California will contribute significantly to developing markets for recycled glass.

(d) The use of cullet in fiberglass manufacturing presents no significant technical or financial barriers to industry or consumers, if

the cullet meets minimum quality specifications.

(e) In order to enhance the availability and efficiency of recycling opportunities, it is in the best interest of the health and safety of the people of the state to make alternative markets for recycled glass economically feasible.

19501. This division shall be known and may be cited as the Fiberglass Recycled Content Act of 1991.

19502. For purposes of this division, the following definitions shall apply:

(a) "Cullet" means postconsumer glass from food, drink, or beverage containers, or any other glass not generated by fiberglass manufacturing.

(b) "Department" means the Department of Conservation.

(c) "Fiberglass manufacturer" means a person who uses glass in the commercial manufacture of building insulation fiberglass for wholesale or retail sale in the state.

(d) "Building insulation" means a fiberglass batt, blanket, loose fill or spray-in-place material primarily designed and used to resist heat flow, that is installed in roofs, ceilings, walls, and floors of buildings.

CHAPTER 2. FIBERGLASS RECYCLED CONTENT PROGRAM

19510. Except as provided in Section 19511, every manufacturer shall ensure that the annual tonnage of fiberglass manufactured or sold in the state by that manufacturer on and after January 1, 1992, other than fiberglass in inventory manufactured for sale before January 1, 1992, shall contain at least 10 percent cullet .

19511. The percentage of fiberglass sold which is made of cullet shall be calculated in tons used on an annual basis. Unless the department determines that an increase in the percentage of cullet would pose an unreasonable technical burden on the fiberglass manufacturer that exceeds the benefits to recycling the cullet, each fiberglass manufacturer shall increase the percentage of cullet in fiberglass in accordance with the following requirements:

(a) On and after January 1, 1994, until December 31, 1994, the percentage of cullet shall be 20 percent.

(b) On and after January 1, 1995, the percentage of cullet shall be 30 percent.

19512. On or before January 1, 1994, the department shall request comments from at least two fiberglass manufacturers, two cullet processors, and any other interested parties on the feasibility of increasing the percentage of cullet in fiberglass to 30 percent. On or before July 1, 1994, the department shall hold a public hearing, on the record, with representatives from the fiberglass industry, cullet processors, and other interested parties to determine the feasibility of increasing cullet content in fiberglass manufacturing.

CHAPTER 3. CULLET SPECIFICATIONS FOR FIBERGLASS MANUFACTURING

19515. The quality specifications provided in this chapter are the minimum quality specifications which cullet is required to meet for purposes of the exemption specified in Section 19522.

19515.5. Chemical Composition

Oxides	Percentage Weight	Tolerance (+ or − Percentage Range)
Silicon Dioxide	66–75	1.00
Aluminum Oxide	0–7	0.50
Calcium Oxide	5–15	0.50
Magnesium Oxide	0–5	0.50
Sodium Oxide	8–18	0.50
Potassium Oxide	0–4	0.50
Iron Oxide	less than 0.5	0.05
Chromium Oxide	less than 0.1	0.02
Sulfur Trioxide	less than 0.2	0.02
All other oxides	less than 0.1	0.02
Organic Carbon	less than 0.1	0.02
Moisture Content (No caking with free-flowing fiberglass)	less than 0.5	0.05
Loss on Ignition	less than 1.0	0.10

19516. Contaminants

Other Inorganic Material	Percentage Weight
+ 12 Mesh	None
+ 20 Mesh	less than 0.1
− 20 Mesh	less than 0.2
Magnetic Materials	less than 0.1
Nonmagnetic Metals	None

19517. Physical Composition

Particle Size: Cullet shall be one of two types below depending upon the requirements of the fiberglass manufacturer.

Screen Size	Coarse Cullet	Fine Cullet
+ ¼"	0%	0%
+ 12 Mesh	25% Minimum	0.5% Maximum
−200 Mesh	15% Maximum	15.0% Maximum

Color Distribution

Type	Nominal Percentage Weight	Tolerance (+ or − Percentage Range)
Flint	0–100	+ or − 3.0
Green	1–100	+ or − 3.0
Amber	less than 25	+ or − 3.0

19518. The department may change minimum quality specifications based upon the fiberglass industries' ability to use cullet with higher levels of contamination.

19519. A fiberglass manufacturer shall comply with all applicable state and federal laws, regulations, and permits concerning the environment, health, or safety when using cullet in fiberglass manufacturing.

CHAPTER 4. CERTIFICATION OF USE

19520. Each fiberglass manufacturer shall, on or before March 1 of each year, submit a report to the department certifying the number of tons of cullet used for the manufacture of fiberglass during the preceding calendar year and the number of tons of fiberglass sold in the state during the preceding calendar year.

19521. Every fiberglass manufacturer who submits glass cullet content usage certification pursuant to Section 19520 may be subject to an audit by the department to ensure that the cullet was used.

19522. If a manufacturer of fiberglass is unable to obtain sufficient amounts of cullet within any certification period, the manufacturer shall certify this fact to the department and provide the department with the specific reason for failing to use cullet, including verification of a best faith effort to use the cullet, and evidence that the cullet failed to meet minimum quality specifications pursuant to Chapter 3 (commencing with Section 19515) and, therefore, presented a significant barrier to meeting the requirements of Chapter 2 (commencing with Section 19510).

19523. For the purposes of implementing and enforcing these provisions, the department shall develop and maintain a list which identifies all fiberglass manufacturers. The department shall also make available to fiberglass manufacturers names and addresses of all recyclers and processors of cullet certified pursuant to Division 12.1 (commencing with Section 14500).

19524. The department shall include in its annual report to the Legislature a discussion of the progress toward achieving maximum use of cullet in the manufacture of fiberglass sold in the state, including opportunities for increasing the content of cullet in fiberglass required by this division.

CHAPTER 5. ENFORCEMENT

19530. If any person provides a fiberglass manufacturer with false or misleading information concerning the recycled content of glass cullet, the department, within 30 days of making this determination, shall refer the false or misleading certificate to the Attorney General for prosecution for fraud.

19531. If any fiberglass manufacturer provides the department with a false or misleading certificate concerning the percentage of glass cullet used pursuant to this division pursuant to Section 19520, the department, within 30 days of making this determination, shall refer the false or misleading certificate to the Attorney General for prosecution for fraud.

19532. If any fiberglass manufacturer provides the department with a false or misleading certificate concerning why the fiberglass manufacturer was unable to meet the content requirements due to technical infeasibility pursuant to Section 19522, the department, within 30 days of making this determination, shall refer the false or misleading certificate to the Attorney General for prosecution for fraud.

19533. Information on glass cullet prices or other prices obtained by the department in the course of an audit is proprietary information and the department shall not make this information available to the general public.

19534. This division does not prevent a person from selling or using fiberglass made of 100 percent virgin content, as long as the fiberglass manufacturer meets the content requirements of Chapter 2 (commencing with Section 19510).

19535. (a) Any person who violates Chapter 2 (commencing with Section 19510) or this section is guilty of an infraction punishable by a fine of not more than one thousand dollars ($1,000).

(b) In addition to subdivision (a), any person who violates this division may be assessed a civil penalty by the department of not more than one thousand dollars ($1,000) for each violation, pursuant to a notice and a hearing conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code. Any civil penalties and fines received pursuant to this section shall be deposited in the Fiberglass Recycled Content Account, which is hereby established in the California Beverage Container Recycling Fund, and the funds in that account may be expended by the department for the administration of this division upon appropriation by the Legislature.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction. Notwithstanding Section 17580 of the Government Code, unless

otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 707

An act to add Sections 22651.4 and 34517 to the Vehicle Code, relating to vehicles.

[Approved by Governor October 7, 1991 Filed with Secretary of State October 9, 1991.]

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

SECTION 1. Section 22651.4 is added to the Vehicle Code, to read:

22651.4. Any peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, may impound a vehicle and its cargo pursuant to Section 34517.

SEC. 2. Section 34517 is added to the Vehicle Code, to read:

34517. (a) With respect to a commercial motor vehicle from another country, no person shall operate the vehicle outside the boundaries of a designated commercial zone unless the required operating authority from the Interstate Commerce Commission has first been obtained.

(b) A violation of subdivision (a) is an infraction punishable by a fine of one thousand dollars ($1,000).

(c) Notwithstanding subdivision (b), a peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, shall issue a citation for a violation of subdivision (a) to the driver of the vehicle and order the driver of the vehicle to return the vehicle to its country of origin. The peace officer may impound a vehicle cited under this section and its cargo until the citation and all charges related to the impoundment are cleared. The impoundment charges are the responsibility of the vehicle's owner.

(d) As used in this section, "designated commercial zone" means a commercial zone, as defined in Sections 1048.101 and 1048.102 of Title 49 of the Code of Federal Regulations.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 708

An act to amend Section 25284.4 of the Health and Safety Code, relating to hazardous substances.

[Approved by Governor October 7, 1991. Filed with Secretary of State October 9, 1991]

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

SECTION 1. Section 25284.4 of the Health and Safety Code is amended to read:

25284.4. (a) On and after January 1, 1989, all tank integrity tests required by this chapter or pursuant to any local ordinance in compliance with Section 25299.1 shall be performed only by, or under the direct and personal supervision of, a tank tester with a currently valid tank testing license issued pursuant to this section. No person shall engage in the business of tank integrity testing, or act in the capacity of a tank tester, within this state on and after January 1, 1989, without first obtaining a tank testing license from the board. The board may extend the January 1, 1989, date for a period of not more than one year, to give tank testers a reasonable opportunity to qualify for licensing. Any person who violates this subdivision is guilty of a misdemeanor and may be subject to civil liability pursuant to subdivision (g).

(b) Any person proposing to conduct tank integrity testing within the state shall apply to the board for a tank testing license, and shall pay the appropriate fee established by the board. A license issued pursuant to this section shall expire three years after the date of issuance and shall be subject to renewal, except as specified in this section. If the tank tester fails to renew the tank tester's license within three years of the license's expiration date, the license shall lapse and the person shall apply for a new tank testing license and shall meet the same requirements of this section for a new applicant. A tank tester shall pay a fee to the board at the time of licensing and at the time of renewal. The board shall adopt a fee schedule for the issuance and renewal of tank testing licenses to cover the necessary and reasonable costs of administering and enforcing this section.

(c) (1) The board may establish any additional qualifications and standards for the licensing of tank testers. Each applicant for licensing as a tank tester shall pass an examination specified by the board and shall have completed a minimum of either of the following:

(A) One year of qualifying field experience by personally testing a number of underground storage tanks specified by the board.

(B) Completed six months of field experience by personally testing a number of underground storage tanks specified by the board and have successfully completed a course of study applicable to tank testing which is satisfactory to the board.

(2) The examination required by paragraph (1) shall, at a minimum, test the applicant's knowledge of all of the following:

(A) General principles of tank and pipeline testing.

(B) Basic understanding of the mathematics relating to tank testing.

(C) Understanding of the specific test procedures, principles, and equipment for which the tank tester will be qualified to operate.

(D) Knowledge of the regulations and laws governing the regulation of underground storage tanks.

(E) Proper safety procedures.

(d) The board shall maintain a current list of all persons licensed pursuant to this section, including a record of enforcement actions taken against these persons. This list shall be made available to local agencies and the public on request.

(e) A tank tester may be liable civilly in accordance with subdivision (g) and, in addition, may be subject to administrative sanctions pursuant to subdivision (f) for performing or causing another to perform, any of the following actions:

(1) Willfully or negligently violating, or causing, or allowing the violation of, this chapter or any regulations adopted pursuant to this chapter.

(2) Willfully or negligently failing to exercise direct and personal control over an unlicensed employee, associate, assistant, or agent during any phase of tank integrity testing.

(3) Without regard to intent or negligence, using or permitting a licensed or unlicensed employee, associate, assistant, or agent to use any method or equipment which is demonstrated to be unsafe or unreliable for tank integrity testing.

(4) Submitting false or misleading information on an application for license.

(5) Using fraud or deception in the course of doing business as a tank tester.

(6) Failing to use reasonable care, or judgment, while performing tank integrity tests.

(7) Failing to maintain competence in approved tank testing procedures.

(8) Failing to use proper tests or testing equipment to conduct tank integrity tests.

(9) Any other action which the board may, by regulation, prescribe.

(f) (1) The board may suspend the license of a tank tester for a period of up to one year, and may revoke, or refuse to grant or renew, a license and may place on probation, or reprimand, the licensee upon any reasonable ground, including, but not limited to, those violations specified in subdivision (e). The board may investigate any licensed tank tester after receiving a written request from a local agency.

(2) The board shall notify the tank tester of any alleged violations and of proposed sanctions, before taking any action pursuant to this

subdivision. The tank tester may request a hearing, or submit a written response within 30 days of the date of notice. Any hearing conducted pursuant to this subdivision shall be conducted in accordance with the hearing procedure specified in subdivision (g). After the hearing, or at a time after the 30-day response period, the board may impose the appropriate administrative sanctions authorized by this subdivision if it finds that the tank tester has committed any of the alleged violations specified in the notice.

(g) (1) The board may impose civil liability for a violation of subdivision (a) or (e) in accordance with Article 2.5 (commencing with Section 13323) of Chapter 5 of Division 7 of the Water Code, in an amount which shall not exceed five hundred dollars ($500) for each day in which the violation occurs, except that the chief of the division of water quality of the board or any other person designated by the board shall issue the complaint to the violator. The complaint shall be issued based on information developed by board staff or local agencies. Any hearing on the complaint shall be made before the board, or a panel thereof, consisting of one or more board members. The decision of the board shall be final upon issuance and may be reviewed pursuant to Section 13325 of the Water Code within 30 days following issuance of the order.

(2) Civil liability for a violation of subdivision (a) or (e) may be imposed by a superior court at the request of the board in an amount which shall not exceed two thousand five hundred dollars ($2,500) for each day in which the violation occurs.

(i) Any fees or civil liability collected pursuant to this section shall be deposited in the Underground Storage Tank Tester Account which is hereby created in the General Fund. The money in this account is available for expenditure by the board, upon appropriation by the Legislature, for purposes of implementing the tank tester licensing program established by this section and for repayment of the loan made by Section 13 of the act of the 1987–88 Regular Session of the Legislature which added this section.

CHAPTER 709

An act to amend Section 219 of the Fish and Game Code, relating to the Fish and Game Commission.

[Approved by Governor October 7, 1991 Filed with Secretary of State October 9, 1991]

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

SECTION 1. Section 219 of the Fish and Game Code is amended to read:

219. Any regulation adopted pursuant to this article may supersede any section of this code designated by number in the

regulation, but shall do so only to the extent specifically provided in the regulation. A regulation which is adopted pursuant to this section shall be valid only to the extent that it makes additions, deletions, or changes to this code under one of the following circumstances:

(a) The regulation is necessary for the protection of fish, wildlife, and other natural resources under the jurisdiction of the commission.

(b) The commission determines that an emergency exists or will exist unless the action is taken. An emergency exists if there is an immediate threat to the public health, safety, and welfare, or to the population or habitat of any species.

A regulation which is adopted pursuant to this section shall be supported by written findings adopted by the commission at the time of the adoption of the regulation setting forth the basis for the regulation.

A regulation adopted pursuant to this section shall remain in effect for not more than 12 months from its effective date.

CHAPTER 710

An act to amend, repeal, and add Section 331 of the Fish and Game Code, relating to hunting, and making an appropriation therefor.

[Approved by Governor October 7, 1991 Filed with Secretary of State October 9, 1991]

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

SECTION 1. Section 331 of the Fish and Game Code is amended to read:

331. (a) The commission may determine and fix the area or areas, the seasons and hours, the bag and possession limit, and the sex and total number of antelope (Antilocapra americana) that may be taken under regulations which the commission may adopt from time to time. Only a resident of the State of California possessing a valid hunting license, who has not taken an antelope under these provisions during the 10 years immediately preceding, may obtain a license tag for the taking of antelope. Only one license tag may be issued to any one individual in any 10-year period.

(b) A license tag may be issued upon payment of a fee of fifty-five dollars ($55), as adjusted under Section 713. The fee shall be deposited in the Fish and Game Preservation Fund and shall be expended, in addition to money budgeted for salaries of persons in the department, for the expense of implementing this section.

(c) The commission shall direct the department to annually authorize not less than one antelope tag or more than 1 percent of the total number of tags available for the purpose of raising funds for programs and projects to benefit antelope. These tags may be sold at auction or by other method and are not subject to the fee

limitation prescribed in subdivision (b).

(d) This section shall remain in effect only until January 1, 1997, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1997, deletes or extends that date.

SEC. 2. Section 331 is added to the Fish and Game Code, to read:

331. (a) The commission may determine and fix the area or areas, the seasons and hours, the bag and possession limit, and the sex and total number of antelope (Antilocapra americana) that may be taken under regulations which the commission may adopt from time to time. Only a resident of the State of California possessing a valid hunting license, who has not taken an antelope under these provisions during the 10 years immediately preceding, may obtain a license tag for the taking of antelope. Only one license tag may be issued to any one individual in any 10-year period.

(b) A license tag may be issued upon payment of a fee of fifty-five dollars ($55), as adjusted under Section 713. The fee shall be deposited in the Fish and Game Preservation Fund and shall be expended, in addition to money budgeted for salaries of persons in the department, for the expense of implementing this section.

(c) This section shall become operative on January 1, 1997.

CHAPTER 711

An act to amend Sections 2551 and 2553 of the Streets and Highways Code, and to amend Section 22658 of the Vehicle Code, relating to vehicles.

[Approved by Governor October 7, 1991 Filed with Secretary of State October 9, 1991]

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

SECTION 1. Section 2551 of the Streets and Highways Code is amended to read:

2551. (a) A service authority for freeway emergencies may be established in any county if the board of supervisors of the county and the city councils of a majority of the cities within the county having a majority of the population of cities within the county adopt resolutions providing for the establishment of the authority.

(b) The resolutions may designate the county transportation commission for the county, created pursuant to Division 12 (commencing with Section 130000) of the Public Utilities Code or council of governments formed pursuant to Chapter 5 (commencing with Section 6500) of Division 7 of Title 1 of the Government Code, as the service authority for freeway emergencies. The powers of a commission or council of governments so designated are limited to those of the service authority.

(c) The Metropolitan Transportation Commission may function

as the service authority for freeway emergencies in any or all of the Counties of Santa Clara, San Mateo, Alameda, Contra Costa, Marin, Solano, Sonoma, Napa, and the City and County of San Francisco upon adoption of a resolution by the commission to act as a service authority and upon ratification of the commission's resolution in a particular county by the board of supervisors of the city and county or by the board of supervisors of the county and by the city councils of the cities within the county having a majority of the population of the cities within the county.

(d) As used in this chapter, "authority" and "service authority" mean a service authority for freeway emergencies created pursuant to this chapter.

SEC. 1.5. Section 2551 of the Streets and Highways Code is amended to read:

2551. (a) A service authority for freeway emergencies may be established in any county if the board of supervisors of the county and the city councils of a majority of the cities within the county having a majority of the population of cities within the county adopt resolutions providing for the establishment of the authority.

(b) The resolutions may designate the county transportation commission for the county, created pursuant to Division 12 (commencing with Section 130000) of the Public Utilities Code or council of governments formed pursuant to Chapter 5 (commencing with Section 6500) of Division 7 of Title 1 of the Government Code, as the service authority for freeway emergencies. The powers of a commission or council of governments so designated are limited to those of the service authority.

(c) The Metropolitan Transportation Commission may function as the service authority for freeway emergencies in any or all of the Counties of Santa Clara, San Mateo, Alameda, Contra Costa, Marin, Solano, Sonoma, Napa, and the City and County of San Francisco upon adoption of a resolution by the commission to act as a service authority and upon ratification of the commission's resolution in a particular county by the board of supervisors of the city and county or by the board of supervisors of the county and by the city councils of the cities within the county having a majority of the population of the cities within the county.

(d) The Sacramento Area Council of Governments may function as the service authority for freeway emergencies in any or all of the Counties of Sacramento, Yolo, Yuba, Sutter, and San Joaquin upon adoption of a resolution by the council to act as a service authority and upon ratification of the resolution in a particular county by the board of supervisors of the county and by the city councils of the cities within the county having a majority of the population of the cities within the county.

(e) As used in this chapter, "authority" and "service authority" mean a service authority for freeway emergencies created pursuant to this chapter.

SEC. 2. Section 2553 of the Streets and Highways Code is

amended to read:

2553. An authority, other than the Metropolitan Transportation Commission or a county transportation commission or a council of governments designated pursuant to Section 2551, shall have seven members, with two members selected by the board of supervisors and five members selected jointly by the city councils of cities within the county.

When the Metropolitan Transportation Commission functions as a service authority, it shall consist of all the members of the commission as set forth in Section 66503 of the Government Code.

SEC. 2.5. Section 2553 of the Streets and Highways Code is amended to read:

2553. An authority, other than the Metropolitan Transportation Commission or a county transportation commission or a council of governments designated pursuant to Section 2551, shall have seven members, with two members selected by the board of supervisors and five members selected jointly by the city councils of cities within the county.

If the Metropolitan Transportation Commission functions as a service authority, it shall consist of all the members of the commission as set forth in Section 66503 of the Government Code.

If the Sacramento Area Council of Governments functions as a service authority, it shall consist of (a) all of the members of the board of directors of the council, as set forth in the Joint Powers Agreement of the Sacramento Area Council of Governments, dated October 21, 1980, pursuant to Chapter 5 (commencing with Section 6500) of Division 7 of Title 1 of the Government Code, (b) one member representing San Joaquin County, and (c) one member representing the cities of San Joaquin County.

SEC. 3. Section 22658 of the Vehicle Code is amended to read:

22658. (a) Except as provided in Section 22658.2, the owner or person in lawful possession of any private property may, subsequent to notifying, by telephone or, if impractical, by the most expeditious means available, the city police or county sheriff, whichever is appropriate, cause the removal of a vehicle parked on the property to the nearest public garage under any of the following circumstances:

(1) There is displayed, in plain view at all entrances to the property, a sign not less than 17 by 22 inches in size, with lettering not less than one inch in height, prohibiting public parking and indicating that vehicles will be removed at the owner's expense, and containing the telephone number of the local traffic law enforcement agency, and the sign may also indicate that a citation may also be issued for the violation.

(2) The vehicle has been issued a notice of parking violation, and 96 hours have elapsed since the issuance of that notice.

(3) The vehicle is on private property and lacks an engine, transmission, wheels, tires, doors, windshield, or any other major part or equipment necessary to operate safely on the highways, the owner

or person in lawful possession of the private property has notified the city police or county sheriff, as appropriate, and 24 hours have elapsed since that notification.

(4) The lot or parcel upon which the vehicle is parked is improved with a single-family dwelling.

(b) The person causing removal of the vehicle shall, if the person knows or is able to ascertain from the registration records of the Department of Motor Vehicles the name and address of the registered and legal owner of the vehicle, immediately give, or cause to be given, notice in writing to the registered and legal owner of the fact of the removal, the grounds for the removal, and indicate the place to which the vehicle has been removed. If the vehicle is stored in a public garage, a copy of the notice shall be given to the proprietor of the garage. The notice provided for in this section shall include the amount of mileage on the vehicle at the time of removal. If the person does not know and is not able to ascertain the name of the owner or for any other reason is unable to give the notice to the owner as provided in this section, the person causing removal of the vehicle shall comply with the requirements of subdivision (c) of Section 22853 relating to notice in the same manner as applicable to an officer removing a vehicle from private property.

(c) This section does not limit or affect any right or remedy which the owner or person in lawful possession of private property may have by virtue of other provisions of law authorizing the removal of a vehicle parked upon private property.

(d) The owner of a vehicle removed from private property pursuant to subdivision (a) may recover for any damage to the vehicle resulting from any intentional or negligent act of any person causing the removal of, or removing, the vehicle.

(e) Any owner or person in lawful possession of any private property, or an "association" pursuant to Section 22658.2, causing the removal of a vehicle parked on that property is liable for double the storage or towing charges whenever there has been a failure to comply with paragraph (1), (2), or (3) of subdivision (a) or to state the grounds for the removal of the vehicle if requested by the legal or registered owner of the vehicle as required by subdivision (f).

(f) Any owner or person in lawful possession of any private property, or an "association" pursuant to Section 22658.2, causing the removal of a vehicle parked on that property shall state the grounds for the removal of the vehicle if requested by the legal or registered owner of that vehicle. Any towing company that removes a vehicle from private property with the authorization of the property owner or the property owner's agent shall not be held responsible in any situation relating to the validity of the removal. Any towing company that removes the vehicle under this section shall be responsible for (1) any damage to the vehicle in the transit and subsequent storage of the vehicle and (2) the removal of a vehicle other than the vehicle specified by the owner or other person in lawful possession of the private property.

(g) Possession of any vehicle under this section shall be deemed to arise when a vehicle is removed from private property and is in transit.

(h) A towing company may impose a charge of not more than one-half of the regular towing charge for the towing of a vehicle at the request of the owner of private property or that owner's agent pursuant to this section if the owner of the vehicle or the owner's agent returns to the vehicle before it is removed from the private property. The regular towing charge may only be imposed after the vehicle has been removed from the property and is in transit.

(i) A charge for towing or storage, or both, of a vehicle under this section is excessive if the charge is greater than that which would have been charged for towing or storage, or both, made at the request of a law enforcement agency under an agreement between the law enforcement agency and a towing company in the city or county in which is located the private property from which the vehicle was, or was attempted to be, removed.

If a request to release a vehicle is made within eight hours from the time the vehicle is brought into the storage facility, regardless of the calendar date, the storage charge shall be for only one day. Not more than one day's storage charge may be required for any vehicle released the same day that it is stored.

(j) Any person who charges a vehicle owner a towing, service, or storage charge at an excessive rate, as described in subdivision (i), is liable to the vehicle owner for four times the amount charged.

(k) Persons operating or in charge of any storage facility where vehicles are stored pursuant to this section shall accept a valid bank credit card or cash for payment of towing and storage by a registered owner or the owner's agent claiming the vehicle. In addition, persons operating or in charge of the storage facility shall have sufficient moneys on the premises to accommodate, and make change in, a reasonable monetary transaction.

Credit charges for towing and storage services shall comply with Section 1748.1 of the Civil Code. Law enforcement agencies may include the costs of providing for payment by credit when making agreements with towing companies as described in subdivision (i).

(*l*) (1) A towing company shall not remove a vehicle from private property without first obtaining written authorization from the property owner or lessee, or an employee or agent thereof, who shall be present at the time of removal. General authorization to remove vehicles at the towing company's discretion shall not be delegated to a towing company or its affiliates except in the case of a vehicle unlawfully parked within 15 feet of a fire hydrant, or in a fire lane, or in a manner which interferes with any entrance to, or exit from, the private property.

(2) If a towing company removes a vehicle without written authorization and that vehicle is unlawfully parked within 15 feet of a fire hydrant, or in a fire lane, or in a manner which interferes with any entrance to, or exit from the private property, the towing

company shall take, prior to the removal of that vehicle, a photograph of the vehicle which clearly indicates that parking violation. The towing company shall keep one copy of the photograph taken pursuant to this paragraph, and shall present that photograph to the owner or an agent of the owner, when that person claims the vehicle.

(3) Any towing company, or any affiliate of a towing company, which removes a vehicle from private property without first obtaining written authorization from the property owner or lessee, or an employee or agent thereof, who is present at the time of removal, except as permitted by paragraph (1), is liable to the owner of the vehicle for four times the amount of the towing and storage charges, in addition to any applicable criminal penalty, for a violation of paragraph (1).

SEC. 4. Section 1.5 of this bill incorporates amendments to Section 2551 of the Streets and Highways Code proposed by both this bill and SB 1254. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1992, (2) each bill amends Section 2551 of the Streets and Highways Code, and (3) this bill is enacted after SB 1254, in which case Section 2551 of the Streets and Highways Code, as amended by SB 1254, shall remain operative only until the operative date of this bill, at which time Section 1.5 of this bill shall become operative, and Section 1 of this bill shall not become operative.

SEC. 5. Section 2.5 of this bill incorporates amendments to Section 2553 of the Streets and Highways Code proposed by both this bill and SB 1254. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1992, (2) each bill amends Section 2553 of the Streets and Highways Code, and (3) this bill is enacted after SB 1254, in which case Section 2553 of the Streets and Highways Code, as amended by SB 1254, shall remain operative only until the operative date of this bill, at which time Section 2.5 of this bill shall become operative, and Section 2 of this bill shall not become operative.

SEC. 6. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 712

An act to amend Sections 18431 and 25405 of, and to add Sections 18431.2 and 25403.5 to, the Revenue and Taxation Code, relating to taxation.

[Approved by Governor October 7, 1991 Filed with Secretary of State October 9, 1991.]

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

SECTION 1. Section 18431 of the Revenue and Taxation Code is amended to read:

18431. Except as otherwise provided by the Franchise Tax Board, any return, declaration, statement, or other document required to be made under any provision of this part or regulations shall contain, or be verified by, a written declaration that it is made under the penalties of perjury. Those returns, and all other returns, declarations, statements, or other documents or copies thereof required by this part, shall be in any form as the Franchise Tax Board may from time to time prescribe, including, but not limited to, on paper, on magnetic media pursuant to Section 19272, or by electronic imaging technology pursuant to Section 18431.2, and shall be filed with the Franchise Tax Board. The Franchise Tax Board shall prepare blank forms for the returns, declarations, statements, or other documents and shall distribute them throughout the state and furnish them upon application. Failure to receive or secure the form does not relieve any taxpayer from making any return, declaration, statement or other document required.

SEC. 2. Section 18431.2 is added to the Revenue and Taxation Code, to read:

18431.2. (a) Any return, declaration, statement, or other document required to be made under this part that is filed using electronic technology shall be in a form as the Franchise Tax Board may prescribe and shall be accompanied by a transmittal document signed in accordance with Section 18431 in the case of individuals, or subdivision (a) of Section 17932 in the case of a partnership.

(b) Notwithstanding any other provision of law, any return, declaration, statement, or other document otherwise required to be signed that is filed in a traditional medium and captured using electronic imaging technology shall be deemed to be a valid original document upon reproduction to paper form by the Franchise Tax Board.

(c) "Electronic imaging technology" means a system of microphotography, optical disk, or reproduction by other technique which does not permit additions, deletions, or changes to the original document. The system may include, but is not limited to, any magnetic media or other machine readable form.

(d) "Traditional medium" means any return, declaration,

statement, or other document required to be made pursuant to this article other than those made using electronic imaging technology.

SEC. 3. Section 25403.5 is added to the Revenue and Taxation Code, to read:

25403.5. (a) Any return, declaration, statement, or other document required to be made under this part that is filed using electronic technology shall be in a form as the Franchise Tax Board may prescribe and shall be accompanied by a transmittal document signed in accordance with Section 25403.

(b) Notwithstanding any other provision of law, any return, declaration, statement, or other document otherwise required to be signed that is filed in a traditional medium and captured using electronic imaging technology shall be deemed to be a valid original document upon reproduction to paper form by the Franchise Tax Board.

(c) "Electronic imaging technology" means a system of microphotography, optical disk, or reproduction by other technique which does not permit additions, deletions, or changes to the original document. The system may include, but is not limited to, any magnetic media or other machine readable form.

(d) "Traditional medium" means any return, declaration, statement, or other document required to be made pursuant to this article other than those made using electronic imaging technology.

SEC. 4. Section 25405 of the Revenue and Taxation Code is amended to read:

25405. All returns, declarations, statements, or other documents or copies thereof required by this part, shall be in any form as the Franchise Tax Board may from time to time prescribe, including, but not limited to, on paper, on magnetic media pursuant to Section 26426, or by electronic imaging technology pursuant to Section 25403.5, and shall be filed with the Franchise Tax Board. Blank forms of returns shall be furnished by the Franchise Tax Board on application, but failure to secure the form shall not release any taxpayer from the obligation of making a return hereunder.

CHAPTER 713

An act to add Section 223.5 to the Streets and Highways Code, relating to highways.

[Approved by Governor October 7, 1991. Filed with Secretary of State October 9, 1991]

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

SECTION 1. Section 223.5 is added to the Streets and Highways Code, to read:

223.5. (a) The department shall develop a policy for the use of

restroom facilities at safety roadside rests by disabled travelers at those locations on state highways which have separate restroom facilities for disabled persons. The policy shall permit a disabled person to be accompanied in the restroom by his or her attendant, who may be a person of the opposite sex, to assist the disabled person.

(b) The policy shall provide for the design and placement of special signs at the safety roadside rests clearly indicating that it is permissible for a person of the opposite sex to accompany a disabled person into the restroom to assist the disabled person.

CHAPTER 714

An act to amend Section 2881 of the Public Utilities Code, relating to telephones.

[Approved by Governor October 7, 1991 Filed with Secretary of State October 9, 1991.]

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

SECTION 1. Section 2881 of the Public Utilities Code is amended to read:

2881. (a) The commission shall design and implement a program whereby each telephone corporation shall provide a telecommunications device capable of servicing the needs of the deaf or severely hearing impaired, together with a single party line, at no charge additional to the basic exchange rate, to any subscriber who is certified as deaf or severely hearing impaired by a licensed physician, audiologist, or a qualified state agency and to any subscriber which is an organization representing the deaf or severely hearing impaired, as determined and specified by the commission pursuant to subdivision (d).

(b) The commission shall also design and implement a program whereby each telephone corporation shall provide a dual-party relay system, using third-party intervention to connect deaf or severely hearing-impaired persons and offices of organizations representing the deaf or severely hearing impaired, as determined and specified by the commission pursuant to subdivision (d), with persons of normal hearing by way of intercommunications devices for the deaf or severely hearing impaired and the telephone system, making available reasonable access of all phases of public telephone service to deaf or severely hearing-impaired telephone subscribers. In order to make a dual party relay system which will meet the requirements of deaf and severely hearing-impaired persons available at a reasonable cost, the commission shall initiate an investigation, conduct public hearings to determine the most cost-effective method of providing dual-party relay service to the deaf or severely hearing impaired when using a telecommunications device, and

solicit the advice, counsel, and physical assistance of statewide nonprofit consumer organizations of the deaf, during the development and implementation of the system. The commission shall phase in this program, on a geographical basis, over a three-year period ending on January 1, 1987.

(c) The commission shall also design and implement a program whereby specialized or supplemental telephone communications equipment may be provided to subscribers who are certified to be disabled at no charge additional to the basic exchange rate. The certification, including a statement of medical need for specialized telephone communications equipment, shall be provided by a licensed physician and surgeon acting within the scope of his or her license or by a qualified state agency, as determined by the commission. The commission shall, in this connection, study the feasibility of, and implement if determined to be feasible, personal income criteria, in addition to the medical certification of disability, for determining a subscriber's eligibility under this subdivision.

(d) The commission shall establish a rate recovery mechanism through a surcharge not to exceed one-half of 1 percent uniformly applied to a subscriber's intrastate telephone service, other than one-way radio paging service and universal telephone service, both within a service area and between service areas, to allow telephone corporations to recover costs as they are incurred under this section. The surcharge shall be in effect until January 1, 1995. The commission shall require that the programs implemented under this section be identified on subscribers' bills as "communication devices funds for deaf and disabled" and shall establish a fund and require separate accounting for each of the programs implemented under this section.

(e) The commission shall determine and specify those statewide organizations representing the deaf or severely hearing impaired which shall receive a telecommunications device pursuant to subdivision (a) or a dual party relay system pursuant to subdivision (b), or both, and in which offices the equipment shall be installed in the case of an organization having more than one office. The commission shall direct the telephone corporations subject to its jurisdiction to comply with its determinations and specifications in this regard.

(f) The commission shall annually review the surcharge level and the balances in the funds established pursuant to subdivision (d). Until January 1, 1995, the commission shall be authorized to make, within the limits set by subdivision (d), any necessary adjustments to the surcharge to ensure that the programs supported thereby are adequately funded and that the fund balances are not excessive. A fund balance which is projected to exceed six months' worth of projected expenses at the end of the fiscal year is excessive.

(g) The commission shall prepare and submit to the Legislature, on or before December 31, 1988, and annually thereafter, a report on the fiscal status of the programs established and funded pursuant to this section and Section 2881.1. The report shall include a statement

of the surcharge level established pursuant to subdivision (d) and revenues produced by the surcharge, an accounting of program expenses, and an evaluation of options for controlling those expenses and increasing program efficiency, including, but not limited to, all of the following proposals:

(1) The establishment of a means test for persons to qualify for program equipment or free or reduced charges for the use of telecommunication services.

(2) The imposition of limits or other restrictions on maximum usage levels for the relay service, which shall include the development of a program to provide basic communications requirements to relay users at discounted rates and, for usage in excess of those basic requirements, at rates which recover the full costs of service.

(3) More efficient means for obtaining and distributing equipment to qualified subscribers.

(4) The establishment of quality standards for increasing the efficiency of the relay system.

CHAPTER 715

An act to add Section 25143.10 to the Health and Safety Code, relating to hazardous waste.

[Approved by Governor October 7, 1991 Filed with Secretary of State October 9, 1991.]

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

SECTION 1. Section 25143.10 is added to the Health and Safety Code, to read:

25143.10. (a) Except as provided in subdivisions (e) and (f), any person who recycles more than 100 kilograms per month of recyclable material under a claim that the material qualifies for exclusion or exemption pursuant to Section 25143.2 shall, on or before July 1, 1992, and every two years thereafter, provide to the local health officer or other local public officer authorized to implement this chapter pursuant to Section 25180, all of the following information, using the format established pursuant to subdivision (d), in writing:

(1) The name, site address, mailing address, and telephone number of the owner or operator of any facility that recycles the material.

(2) The name and address of the generator of the recyclable material.

(3) Documentation that the requirements of any exemptions or exclusions pursuant to Section 25143.2 are met, including, but not limited to, all of the following:

(A) Where a person who recycles the material is not the same person who generated the recyclable material, documentation that there is a known market for disposition of the recyclable material and any products manufactured from the recyclable material.

(B) Where the basis for the exclusion is that the recyclable material is used or reused to make a product or as a safe and effective substitute for a commercial product, a general description of the material and products, identification of the constituents or group of constituents, and their approximate concentrations, which would render the material or product hazardous under the regulations adopted pursuant to Sections 25140 and 25141, if it were a waste, and the means by which the material is beneficially used.

(b) The governing body of a city or county may adopt an ordinance or resolution pursuant to Section 510 to pay for the actual expenses of the activities carried out by local health officers or other local public officers pursuant to subdivision (a).

(c) If a person who recycles material under a claim that the material qualifies for exclusion or exemption pursuant to Section 25143.2 is not the same person who generated the recyclable material, the person who recycles the material shall, on or before July 1, 1992, and every two years thereafter, provide a copy of the information required to be submitted pursuant to subdivision (a) to the generator of the recyclable material.

(d) The person providing the information required by subdivision (a) shall use a format developed by the California Conference of Directors of Environmental Health in consultation with the department. The department shall distribute the format to local health officers or other local public officers authorized to implement this chapter pursuant to Section 25180.

(e) A recyclable material generated in a product or raw material storage tank, a product or raw material transport vehicle or vessel, a product or raw material pipeline, or in a manufacturing process unit or an associated nonwaste treatment manufacturing unit is not subject to the requirements of this section, until the recyclable material exits the unit in which it was generated, unless the unit is a surface impoundment, or unless the material remains in the unit for more than 90 days after the unit ceases to be operated for manufacturing, storage, or transportation of the product or raw material.

(f) A local health officer or other local public officer authorized to implement this chapter pursuant to Section 25180 may exempt from subdivision (a) any person who operates antifreeze recycling units or solvent distillation units, where the recycled material is returned to productive use at the site of generation, or may require less information than that required under subdivision (a) from such a person.

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

will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 716

An act to amend Sections 68901, 69899.5, 69994.2, 70045.6, 70046.1, 70059.7, 73084.1, 73084.2, 73084.3, 73084.4, 73084.5, 73084.6, 73085, 73087, 73089, 73096, 73113, 73433, 73433.1, 73433.4, 73434, 73435, 73436, 73436.1, 73436.2, 73437, 73483, 73484, 73485, 73487, 73523, 73524, 73524.1, 73525, 73601, 73602, 73682, 73683, 73684, 73686, 73687, 73691, 73692, 73695, 73705, 73706, 73708, 73710, 73713, 73772, 73773, 73793, 73796, 73797, 73798, 73822, 73823, 73959, 74002, 74004, 74010, 74011, 74012, 74013, 74192, 74193, 74201, 74207, 74208, 74604, 74607, 74610, 74642, 74643, 74644, 74645, 74663, 74665, 74701.5, 74703, 74705, 74708, 74783, 74784, 74803, 74804, 74805, 74807, 74808, 74921.9, 74921.10, 74921.11, 74937, 74940, and 77003 of, to add Sections 70142.13 and 73096.1 to, and to repeal Sections 73433.2 and 73433.3 of, the Government Code, relating to courts.

[Approved by Governor October 7, 1991 Filed with Secretary of State October 9, 1991]

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

SECTION 1. Section 68901 of the Government Code is amended to read:

68901. The annual salary of the reporter of the decisions of the Supreme Court and of the courts of appeal is seventy-four thousand four hundred fifty-four dollars ($74,454) or as set by the Supreme Court, subject to the approval of the Chairman of the Judicial Council pursuant to subdivision (b) of Section 19825.

SEC. 2. Section 69899.5 of the Government Code is amended to read:

69899.5. In the County of Orange, a majority of the judges of the superior court may appoint or delegate authority to the Superior Court Executive Officer to appoint the following officers and employees whose salaries shall be:

Number of Positions	Title	Salary Range
4	Accounting Assistant II-Superior Court	D36 S/3
1	Accounting Office Supervisor II-Superior Court	D46
2	Administrative Services Assistant II-Superior Court	ML4
1	Assistant Superior Court Executive Officer	ML7
13	Attorney III-Superior Court	L3
23	Court Mediator	A60
3	Data Entry Specialist-Superior Court	D39 S/2
1	Director, Mediation/Investigative Services	A68
1	Executive Secretary I-Superior Court	D48
2	Executive Secretary II-Superior Court	D50
9	Information Processing Technician-Superior Court	D37 S/3
1	Information Systems Technician-Superior Court	A55
2	Master Calendar Assistant	D42
4	Mediation/Investigative Services Supervisor	A64
16	Office Assistant-Superior Court	D33 S/5
22	Office Specialist-Superior Court	D39
1	Office Supervisor D-Superior Court	D46
2	Probate Checker	A48
7	Probate Examiner II	A55
1	Probate Investigator II	A53
4	Probate Investigator I	A51
1	Secretary III-Superior Court	D44
2	Secretary I-Superior Court	D36 S/5
13	Senior Judicial Secretary	D44
1	Senior Office Supervisor A-B-Superior Court	D47
2	Senior Systems/Programmer Analyst Superior Court	A70

2	Staff Analyst III-Superior Court	ML4
1	Staff Analyst II-Superior Court	ML3
1	Storekeeper I-Superior Court	H10
4	Store Clerk-Superior Court	H7
12	Superior Court Commissioner	85% of Salary of Superior Court Judge
3	Superior Court Division Director	ML5
6	Superior Court Services Coordinator II	A62
2	Superior Court Services Supervisor I	D53
1	Superior Court Services Supervisor II	D56
1	Supervising Attorney-Superior Court	L4 S/2
1	Supervising Judicial Secretary	D47
1	Supervising Probate Examiner	A59
3	Systems Programmer Analyst I-Superior Court	A60
3	Systems Programmer Analyst II-Superior Court	A64
2	Utility Worker/Driver	A34

The references to a numbered salary range in this section are to the salary schedule in the Personnel and Salary Resolution of the County of Orange.

All personnel appointed pursuant to this section shall serve at the pleasure of the majority of the judges and may at any time be removed by the majority of the judges in their discretion or of the Superior Court Executive Officer when so delegated.

With the approval of the board of supervisors, the superior court may establish such additional positions, titles and pay rates as are required, and may appoint and employ such additional commissioners, officers, assistants, and other employees as it deems necessary for the performance of the duties and exercise of the powers conferred by law upon the court and its members. Rates of compensation of all officers, assistants, and other employees authorized by this section, except those of court commissioners, may be adjusted by joint action and approval of the board of supervisors and a majority of the judges of the court, the Superior Court Executive Committee or the Superior Court Executive Officer when so delegated.

All court personnel shall be entitled to such step advancement, vacation, sick leave, holiday benefits, other leaves of absence, lump-sum payments for sick leave and vacation when separated from

the service, inclusion in the retirement system of the County of Orange and other benefits as may be adopted in a memorandum of understanding with a recognized employee organization or as may be directed by rules adopted by a majority of the judges as are provided to county employees of such county.

Superior court commissioners shall be entitled to such benefits as may be directed by rules adopted by the majority of the judges.

Where statutes require implementation by local ordinances for the extension of such benefits to local officers and employees, these benefits may be made applicable, by rule, to such employees.

Rules of the court may include other matters pertaining to the general administration of the court, including conditions of employment of such personnel. When such rules are adopted by a majority of the judges and filed with the Judicial Council they shall have the same status as other rules of court adopted pursuant to Section 68070.

When requested to do so by the court, the county shall furnish to the superior court such services as may be required in connection with the recruitment and employment of such personnel.

All such personnel and judges shall be allowed actual traveling and necessary expenses incurred while engaged in the duties of their employment or office outside of the county.

SEC. 3. Section 69994.2 of the Government Code is amended to read:

69994.2. The regular official phonographic reporters shall be compensated at an annual salary of forty-two thousand four hundred seventy dollars ($42,470), except that these reporters may be employed at an annual salary of thirty-four thousand nine hundred thirty-two dollars ($34,932) for the first year of service, at an annual salary of thirty-six thousand six hundred eighty-six dollars ($36,686) for the second year of service, at an annual salary of thirty-eight thousand five hundred twenty-four dollars ($38,524) for the third year of service, and at an annual salary of forty thousand four hundred forty-five dollars ($40,445) for the fourth year of service. The judges of the superior and municipal courts of such county, a majority concurring, may appoint a supervising phonographic reporter at an annual salary of forty-seven thousand five hundred two dollars ($47,502), except that such reporter may be employed at an annual salary of forty-three thousand ninety-six dollars ($43,096) for the first year of service and at an annual salary of forty-five thousand two hundred forty-seven dollars ($45,247) for the second year of service.

SEC. 4. Section 70045.6 of the Government Code is amended to read:

70045.6. (a) In Kern County each regular reporter shall be paid the biweekly salary specified in range 52.4 of the salary schedule. The court reporter shall be paid biweekly pursuant to the payroll procedures in effect in the County of Kern.

(b) Beginning January 1, 1980, the board of supervisors may adjust

the salary of each regular official reporter as part of its county employee compensation plan. Any adjustment to reporter salaries shall be effective on the same date as the effective date of the board's action to adjust compensation of other county employees. Any adjustment shall be effective only until January 1 of the second year following the year in which the adjustment is made, unless ratified by the Legislature.

(c) In addition to the compensation provided for in this section, each regular official reporter shall be entitled to and shall receive, on the same basis as other county employees, the same benefits and privileges with respect to retirement, group insurance, sick leave, and vacations. Court reporters shall observe the same holidays as other court employees. For the purposes of determining participation in the county retirement system, the salary provided for such reporters in this section shall be deemed their entire compensation.

(d) Each pro tempore official reporter shall be paid one hundred fifty dollars ($150) a day for the days he or she is actually on duty under order of the court.

SEC. 5. Section 70046.1 of the Government Code is amended to read:

70046.1. In Santa Clara County, the board of supervisors shall fix the salary of regular official reporters, which shall not be less than a biweekly salary of one thousand seven hundred eighty-four dollars and forty cents ($1,784.40), and the compensation of official reporters pro tempore, which shall be at a rate not less than ninety-eight dollars and fourteen cents ($98.14) per half day and one hundred ninety-six dollars and twenty-eight cents ($196.28) per day.

During the hours that the court is open for the transaction of judicial business, official reporters shall devote full time to the performance of the duties required of them by law and shall not engage in or solicit to engage in any other employment in their professional capacity.

SEC. 6. Section 70059.7 of the Government Code is amended to read:

70059.7. In Santa Barbara County each regular official reporter shall be paid a biweekly salary which shall be one thousand six hundred eighty-five dollars and eighty-five cents ($1,685.85) which salary shall include payment for services in reporting all proceedings in the superior or municipal court, before the grand jury, and before coroners' inquests.

Reporters pro tempore shall be paid at a per diem rate of up to a maximum of one hundred sixty-eight dollars ($168) or eighty-four dollars ($84) for each half day or four (4) hour period or portion thereof for the days they are actually on duty under order of the court, and shall receive from the county their necessary traveling and other expenses when necessarily called from other counties. Rates of compensation of regular official reporters and official reporters pro tempore may be adjusted by joint action and approval

of the board of supervisors and a majority of the judges of the court. However, any changes in compensation which are made pursuant to this section shall be on an interim basis and shall remain in effect only until January 1, 1993, unless ratified by statute by the Legislature prior to that date.

In such a county, the fee required by Section 70053 shall be ten dollars ($10).

In addition to any fee otherwise required, in all contested civil trials wherein the services of a court reporter have been requested by any party to the action, a per diem fee shall be charged to the party requesting the service, or, at the discretion of the court, to the parties on a pro rata basis, for each day of court reporting service or portion thereof, equal to the per diem rate established for pro tempore reporters of the court. If the court assesses the reporter's fee on a pro rata basis, the reporter and fee attached thereto may be waived upon the timely stipulation of all parties. Fees in long-cause civil trials shall be posted with the clerk's office no later than 14 days prior to the date set for master calendar. Fees in short-cause civil trials of one day or less, shall be posted with the clerk's office no later than seven days prior to the date set for the short-cause calendar.

SEC. 7. Section 70142.13 is added to the Government Code, to read:

70142.13. (a) In lieu of appointing a juvenile court referee pursuant to Section 247 of the Welfare and Institutions Code, the judges of the superior court in Tulare County, by majority vote, may appoint a court commissioner. The superior court may provide that the commissioner, in addition to the powers and duties specified in Section 259 of the Code of Civil Procedure, shall perform the duties of a probate commissioner appointed pursuant to Section 69897 and, if appointed by the presiding judge of the juvenile court, shall perform the duties of a juvenile court referee as specified in Section 247 of the Welfare and Institutions Code.

(b) Any commissioner appointed pursuant to this section shall have been admitted to practice law in California for not less than five years, shall hold office at the pleasure of the superior court, and shall not engage in the private practice of law.

(c) The salary of the commissioner for all duties performed pursuant to this section shall be up to 80 percent of the annual salary of a judge of a superior court. The commissioner shall be a member of the Tulare County Retirement System and shall receive vacation, sick leave, and fringe benefits identical to those provided Tulare County judicial management employees.

(d) Notwithstanding subdivision (c) of Section 77202, the court commissioner position shall be counted in determining the number of subordinate judicial positions in the county and shall be considered as part of the court operations for the county for purposes of Sections 77003 and 77204.

SEC. 8. Section 73084.1 of the Government Code is amended to read:

73084.1. The clerk and administrative officer of the municipal court for the Alameda Judicial District may appoint the following deputy clerks:

(a) One chief deputy clerk.
(b) Two deputy clerks, municipal courtroom clerk.
(c) Three deputy clerks, supervising municipal court clerk II.
(d) Two deputy clerks, senior municipal court clerk.
(e) Nine deputy clerks, municipal court clerk.
(f) One deputy clerk, clerk II.
(g) One deputy clerk, accounting technician.
(h) One deputy clerk, secretary II.

Not more than one such deputy clerk may be assigned as court interpreter at the additional percentage compensation provided for county employees required to possess bilingual capabilities.

SEC. 9. Section 73084.2 of the Government Code is amended to read:

73084.2. The clerk and administrative officer of the municipal court for the Berkeley-Albany Judicial District may appoint the following deputy clerks:

(a) One chief deputy clerk.
(b) Three deputy clerks, supervising municipal court clerk II.
(c) Five deputy clerks, municipal courtroom clerk.
(d) Six deputy clerks, senior municipal court clerk.
(e) Eight deputy clerks, municipal court clerk.
(f) Three deputy clerks, clerk II.
(g) One deputy clerk, secretary II.
(h) One deputy clerk, supervising accountant I.
(i) One deputy clerk, account clerk II.
(j) One deputy clerk, account clerk I.
(k) Four deputy clerks, data input clerk.

Not more than three such deputy clerks may be assigned as court interpreter at the additional percentage compensation provided for county employees required to possess bilingual capabilities.

SEC. 10. Section 73084.3 of the Government Code is amended to read:

73084.3. The clerk and administrative officer of the municipal court for the Oakland-Piedmont-Emeryville Judicial District may appoint the following deputy clerks:

(a) One chief deputy clerk.
(b) Three deputy clerks, division chiefs. The clerk and administrative officer may transfer the division chiefs from one division to another regardless of any resulting change in salary as set forth in subdivision (a) of Section 73086.
(c) Four deputy clerks, assistant division chiefs.
(d) One deputy clerk, calendar coordinator.
(e) Six deputy clerks, supervising municipal court clerk II.
(f) Nineteen deputy clerks, municipal courtroom clerk.
(g) Six deputy clerks, supervising municipal court clerk I.
(h) Seven deputy clerks, senior municipal court clerk.

(i) Fifty-nine deputy clerks, municipal court clerk.
(j) Thirteen clerks, clerk II.
(k) One deputy clerk, supervising secretary II.
(*l*) Three deputy clerks, secretary I.
(m) Thirteen deputy clerks, data input clerk.
(n) One deputy clerk, information systems analyst.
(o) One deputy clerk, management specialist.
(p) Two deputy clerks, financial hearing officers.
(q) One deputy clerk, systems analyst.
(r) Twelve court reporters.
(s) One deputy clerk, court training officer.

Not more than eight such deputy clerks may be assigned as court interpreters at the additional percentage compensation provided for county employees required to possess bilingual capabilities.

SEC. 11. Section 73084.4 of the Government Code is amended to read:

73084.4. The clerk and administrative officer of the municipal court for the San Leandro-Hayward Judicial District may appoint the following deputy clerks:

(a) One chief deputy clerk.
(b) Five deputy clerks, division chiefs. The clerk and administrative officer may transfer the division chiefs from one division to another regardless of any resulting change in salary as set forth in Section 73086.
(c) Nine deputy clerks, municipal courtroom clerk.
(d) Five deputy clerks, supervising municipal court clerk I.
(e) Two deputy clerks, senior municipal court clerk.
(f) Thirty-six deputy clerks, municipal court clerk.
(g) One deputy clerk, supply clerk.
(h) One deputy clerk, secretary II.
(i) One deputy clerk, secretary I.
(j) One deputy clerk, accounting technician.
(k) Six deputy clerks, data input clerk.
(*l*) One deputy clerk, court attendant.
(m) One deputy clerk, financial hearing officer.

Not more than five such deputy clerks may be assigned as court interpreters at the additional percentage compensation provided for county employees required to possess bilingual capabilities.

SEC. 12. Section 73084.5 of the Government Code is amended to read:

73084.5. The clerk and administrative officer of the municipal court for the Fremont-Newark-Union City Judicial District may appoint the following deputy clerks:

(a) One chief deputy clerk.
(b) Six deputy clerks, municipal courtroom clerk.
(c) Four deputy clerks, division chief.
(d) Five deputy clerks, senior municipal court clerk.
(e) Twenty-one deputy clerks, municipal court clerk.
(f) Four deputy clerks, clerk II.

(g) One deputy clerk, secretary II.
(h) One deputy clerk, supervising accountant I.
(i) Two deputy clerks, account clerk II.
(j) One deputy clerk, account clerk I.
(k) Seven deputy clerks, data input clerk.
(*l*) Three deputy clerks, supervising municipal court clerk I.
(m) One deputy clerk, financial hearing officer.
(n) One deputy clerk, secretary I.
(o) One deputy clerk, supervising municipal court clerk II.
(p) One deputy clerk, court attendant.

Not more than four such deputy clerks may be assigned as court interpreters at the additional percentage compensation provided for county employees required to possess bilingual capabilities.

SEC. 13. Section 73084.6 of the Government Code is amended to read:

73084.6. The clerk and administrative officer of the municipal court for the Livermore-Pleasanton-Dublin Judicial District may appoint the following deputy clerks:

(a) One chief deputy clerk.
(b) Three deputy clerks, municipal courtroom clerk.
(c) Three deputy clerks, supervising municipal court clerk II.
(d) Four deputy clerks, senior municipal court clerk.
(e) Twelve deputy clerks, municipal court clerk.
(f) One deputy clerk, supervising accountant I.
(g) One deputy clerk, secretary II.
(h) Two deputy clerks, data input clerk.
(i) One deputy clerk, financial hearing officer.
(j) One deputy clerk, court attendant.

Not more than four such deputy clerks may be assigned as court interpreter at the additional percentage compensation provided for county employees required to possess bilingual capabilities.

SEC. 14. Section 73085 of the Government Code is amended to read:

73085. Chief deputy clerks of the following districts shall receive a bi-weekly salary at the rate set forth for that item number classification in the ordinance established for municipal courts:

	Ordinance Class No.
Oakland-Piedmont-Emeryville Judicial District	1675M
Hayward-San Leandro Judicial District	1676M
Fremont-Newark-Union City Judicial District	1677M
Berkeley-Albany Judicial District	1678M
Livermore-Pleasanton-Dublin Judicial District	1674M
Alameda Judicial District	1679M

SEC. 15. Section 73087 of the Government Code is amended to read:

73087. (a) Deputy clerks in each municipal court in Alameda

County shall receive a biweekly salary at the rate set forth for that item number classification in the ordinance established for municipal courts as follows:

	Ordinance Class No.
Deputy clerk, municipal court clerk	1615
Deputy clerk, senior municipal court clerk	1620
Deputy clerk, supervising municipal court clerk I	1655M
Deputy clerk, supervising municipal court clerk II	1656M
Deputy clerk, municipal courtroom clerk	1660
Deputy clerk, court attendant	9067 or 9067N

(b) Deputy clerks in each municipal court in Alameda County shall receive a biweekly salary at the rate set forth for that item number classification in the Alameda County ordinance as follows:

	Ordinance Class No.
Deputy clerk, account clerk I	1305
Deputy clerk, account clerk II	1310
Deputy clerk, accounting technician	1315M
Deputy clerk, administrative services assistant I	0220M
Deputy clerk, administrative services officer I	0224M
Deputy clerk, clerk I	1115
Deputy clerk, clerk II	1120
Deputy clerk, data input clerk	1131
Deputy clerk, information systems analyst	0419M
Deputy clerk, secretary I	1215
Deputy clerk, secretary II	1220M
Deputy clerk, stenographer II	1210
Deputy clerk, supervising accountant I	0133M
Deputy clerk, supervising secretary I	1216M
Deputy clerk, supervising secretary II	1221M
Deputy clerk, financial hearing officer	1426

(c) Notwithstanding any other provisions of this code, the rules governing flexibly staffed classifications, the administration of the pay plan and additional compensation shall be the same as that for employees of Alameda County.

SEC. 16. Section 73089 of the Government Code is amended to read:

73089. With the approval of the board of supervisors, judges of each municipal court concerned within Alameda County may establish such additional titles and pay rates as are required and may appoint such additional deputy clerks, officers, assistants, and other employees as deemed necessary for the powers conferred by law upon the court and its members. Rates of compensation of the clerk and administrative officers, deputy clerks, officers, assistants, and

other employees may be adjusted by joint action and approval of the board of supervisors and the judges in each respective municipal court within the county.

If the board of supervisors provides by ordinance or resolution for any increase in the number or rate of compensation of any municipal court personnel pursuant to this section, such increase shall be effective only until January 1, 1994, and shall be effective at the same time and in the same manner as such increases for Alameda County employees generally.

SEC. 17. Section 73096 of the Government Code is amended to read:

73096. Official reporters of municipal courts in Alameda County, in lieu of any other compensation provided by law for their services in reporting testimony and proceedings in such court, shall receive one of the following:

(a) One hundred eighty-nine dollars and sixty cents ($189.60) a day for the days they actually are on duty under order of the court.

(b) A minimum payment of ninety-four dollars and eighty cents ($94.80) for serving four hours or less a day.

(c) Regular official court reporters shall receive a salary, vacation leave, and sick leave, in the same amounts as the official reporters of the Superior Court in Alameda County as set forth in Alameda County Salary Ordinance for item number classification 1625.

Rates of compensation of regular official reporters and official reporters pro tempore may be adjusted by joint action and approval of the board of supervisors and a majority of the judges of the court, provided, however, that any changes in compensation which are made pursuant to this section shall be on an interim basis and shall remain in effect only until January 1, 1994, unless ratified by statute by the Legislature prior to that date.

SEC. 18. Section 73096.1 is added to the Government Code, to read:

73096.1. The judges of each municipal court district set forth below may appoint the following number of regular official reporters:

Alameda Judicial District	1
Berkeley-Albany Judicial District	4
Oakland-Piedmont-Emeryville Judicial District	12
San Leandro-Hayward Judicial District	7
Fremont-Newark-Union City Judicial District	5
Livermore-Pleasanton-Dublin Judicial District	2

SEC. 19. Section 73113 of the Government Code is amended to read:

73113. The number of positions within each job classification which may be filled by appointment by the municipal court administrator and the marshal and the salary range prescribed in Section 73113.5 which constitutes the compensation for each job

classification are as follows:

Appointed by the Municipal Court Administrator

Job classification	Number	Salary Range Effective 7/1/89	6/30/90
Assistant Municipal Court Administrator	1	C72	D72
Municipal Court Division Manager II	3	C59	D59
Municipal Court Division Manager I	5	C55	D55
Municipal Court Division Supervisor II	3	C51	D51
Municipal Court Division Supervisor I	5	C44	D44
Municipal Court Chief Clerk	5	C44	D44
Courtroom Clerk II	41	C41	D41
Clerk IV	10	C34	D34
Fiscal Clerk II	8	C31	D31
Fiscal Clerk III	2	C36	D36
Clerk III	94	C30	D30
Clerk II	1	C23	D23
Legal Procedures Clerk I	42	C32	D32
Legal Procedures Clerk II	3	C38	D38
Legal Procedures Clerk III	1	C44	D44
Secretary I	1	C35	D35
Secretary II	5	C38	D38
Accountant I	1	C48	D48
Automated Systems Analyst II	1	C60	D60
Supervisor of Administrative Services I	1	C54	D54
Staff Analyst I	1	C48	D48
Executive Secretary III	1	C42	D42

Appointed by Marshal

Job classification	Number	Salary Range Effective 7/1/89	12/30/89	6/30/90	12/29/90
Marshal's Captain	3		G29		H29
Marshal's Lieutenant	7		G28		H28
Marshal's Sergeant	7		G25		H25
Deputy Marshal	65		E17		F17
Administrative Clerk II	1	C43		D43	

Marshal's Clerk II	13	C31	D31
Marshal's Clerk I	15	C26	D26
Marshal's Technician	22	C32	D32
Marshal's Radio Dispatch Clerk	5	C28	D28
Executive Secretary II .	1	C38	D38
Staff Analyst II	1	C54	D54

The marshal shall also appoint as many deputy marshal keepers as may be required by law. The deputy marshal keepers shall be compensated at the fee allowed by law for keeping property.

In hiring for vacancies in the position of deputy marshal, the marshal may appoint successful candidates as deputy marshal probationary at a flat hourly rate. The flat hourly rate shall be in the sum of thirteen dollars and eighty cents ($13.80) commencing December 30, 1989, and fourteen dollars and sixty-three cents ($14.63) commencing with December 29, 1990, and shall be payable until successful completion of a probationary period of one year, except that the marshal may extend the probationary period for not to exceed six months, after which the deputy marshal probationary shall be advanced to the deputy marshal classification at the "A" step of the appropriate salary range.

SEC. 20. Section 73433 of the Government Code is amended to read:

73433. There shall be one clerk-administrator in each municipal court who shall be appointed by and serve at the pleasure of a majority of the judges of the court to which the clerk-administrator is appointed. In a court with less than three judges, the presiding judge shall appoint the clerk-administrator of the court. The clerk-administrator of the East Kern Municipal Court shall receive the biweekly salary specified in range 54.1 of the salary schedule. The clerk-administrator of the North Kern Municipal Court shall receive the biweekly salary specified in range 54.1 of the salary schedule. The clerk-administrator of the South Kern Municipal Court shall receive the biweekly salary specified in range 54.1 of the salary schedule. The clerk-administrator of the Bakersfield Municipal Court shall receive the biweekly salary specified in range 59.1 of the salary schedule. The salary of the Bakersfield Municipal Court clerk-administrator shall be not less than 12 full range steps higher than the salary range in which the position of chief deputy court clerk is compensated.

SEC. 21. Section 73433.1 of the Government Code is amended to read:

73433.1. There shall be one assistant clerk-administrator in the Bakersfield Municipal Court who shall be appointed by and serve at the pleasure of the majority of the judges of the court. The assistant clerk-administrator shall receive the biweekly salary specified in range 54.1 of the salary schedule.

SEC. 22. Section 73433.2 of the Government Code is repealed.

SEC. 23. Section 73433.3 of the Government Code is repealed.

SEC. 24. Section 73433.4 of the Government Code is amended to read:

73433.4. There shall be one assistant clerk-administrator in the South Kern Municipal Court who shall be appointed by and serve at the pleasure of the majority of the judges of the court. The assistant clerk-administrator shall receive the biweekly salary specified in range 50.1 of the salary schedule.

SEC. 25. Section 73434 of the Government Code is amended to read:

73434. There shall be one judicial secretary in the Bakersfield Municipal Court who shall be appointed by and serve at the pleasure of a majority of the judges of the court. The judicial secretary shall receive a biweekly salary specified in range 44.7 of the salary schedule.

SEC. 26. Section 73435 of the Government Code is amended to read:

73435. The clerk-administrator of the Bakersfield Municipal Court may appoint:

(a) Three chief deputy municipal court clerks who shall act as the supervisors of the civil, criminal, and traffic divisions of the court and each of whom shall receive the biweekly salary specified in range 45.6 of the salary schedule.

(b) Six deputy municipal court clerks III, each of whom shall receive the biweekly salary specified in range 43.8 of the salary schedule.

(c) Twenty municipal courtroom clerks or junior municipal courtroom clerks, each of whom shall receive the biweekly salary specified in ranges 44.3 and 41.9, respectively, of the salary schedule.

Junior municipal courtroom clerk shall be the entrance position to courtroom clerk. The clerk-administrator, with the concurrence of the presiding judge, may advance any junior municipal courtroom clerk to the position of municipal courtroom clerk without further examination, if the junior municipal courtroom clerk has served for six months and otherwise meets the qualifications for municipal courtroom clerk and if the presiding judge is satisfied with the junior municipal courtroom clerk's performance during the six-month period.

(d) One data entry operator IV who shall receive the biweekly salary specified in range 42.2 of the salary schedule.

(e) Three data entry operators II or I, each of whom shall receive the biweekly salary specified in ranges 38.2 and 36.2, respectively, of the salary schedule. Data entry operator I shall be the entrance position to the data entry operator series. The clerk-administrator may advance any data entry operator I to the position of data entry operator II without further examination if the data entry operator I has served for one year and otherwise meets the qualifications for data entry operator II.

(f) Forty-five full-time deputy municipal court clerks II, I, or junior deputy municipal court clerks, each of whom shall receive the

biweekly salary specified in ranges 41.9, 37.9, and 33.7, respectively, of the salary schedule.

Junior deputy municipal court clerk shall be the entrance position to the clerk's staff. The clerk-administrator may advance any junior deputy municipal court clerk to the position of deputy municipal court clerk I without further examination, if the junior deputy municipal court clerk has served for six months and otherwise meets the qualifications for deputy municipal court clerk I. The clerk-administrator may advance any deputy municipal court clerk I to the position of deputy municipal court clerk II without further examination if the deputy municipal court clerk I has served for six months and otherwise meets the qualifications for deputy municipal court clerk II.

(g) One senior secretary who shall receive the biweekly salary specified in range 43.3 of the salary schedule.

(h) One legal clerk I who shall receive the biweekly salary specified in range 41.9 of the salary schedule.

(i) One accountant II or I who shall receive the biweekly salary specified in ranges 49.5 and 46.8, respectively, of the salary schedule. Accountant I shall be the entrance position to the accountant series. The clerk-administrator may advance the accountant I to the position of accountant II without further examination if the accountant I has served for one year and otherwise meets the qualifications of accountant II.

(j) Two recording technicians, each of whom shall receive the biweekly salary specified in range 41.4 of the salary schedule.

(k) Two administrative clerks, each of whom shall receive the biweekly salary specified in range 41.4 of the salary schedule.

(*l*) Two court interpreters, each of whom shall receive the biweekly salary specified in range 42.5 of the salary schedule.

(m) One microphotographer who shall receive the biweekly salary specified in range 39.1 of the salary schedule.

(n) One business manager who shall receive the biweekly salary specified in range 54.6 of the salary schedule.

(o) One municipal court program coordinator who shall receive the biweekly salary specified in range 49.4 of the salary schedule.

(p) One senior microphotographer who shall receive the biweekly salary specified in range 43.3 of the salary schedule.

SEC. 27. Section 73436 of the Government Code is amended to read:

73436. The clerk-administrator of the East Kern Municipal Court may appoint:

(a) Two chief deputy municipal court clerks who shall act as the supervisors of the branches of the court and each of whom shall receive the biweekly salary specified in range 45.6 of the salary schedule.

(b) Five deputy municipal court clerks III, each of whom shall receive the biweekly salary specified in range 43.8 of the salary schedule.

(c) Two data entry operators II or I, each of whom shall receive the biweekly salary specified in ranges 38.2 and 36.2, respectively, of the salary schedule. Data entry operator I shall be the entrance position to the data entry operator series. The clerk-administrator may advance any data entry operator I to the position of data entry operator II without further examination if the data entry operator I has served for one year and otherwise meets the qualifications for data entry operator II.

(d) Seventeen deputy municipal court clerks II, I, or junior deputy municipal court clerks, each of whom shall receive the biweekly salary specified in ranges 41.9, 37.9, and 33.7, respectively, of the salary schedule.

Junior deputy municipal court clerk shall be the entrance position to the clerk's staff. The clerk-administrator may advance any junior deputy municipal court clerk to the position of deputy municipal court clerk I without further examination, if the junior deputy municipal court clerk has served for six months and otherwise meets the qualifications for deputy municipal court clerk I. The clerk-administrator may advance any deputy municipal court clerk I to the position of deputy municipal court clerk II without further examination if the deputy municipal court clerk I has served for six months and otherwise meets the qualifications for deputy municipal court clerk II.

(e) One account clerk III who shall receive the biweekly salary specified in range 40.4 of the salary schedule.

SEC. 28. Section 73436.1 of the Government Code is amended to read:

73436.1. The clerk-administrator of the North Kern Municipal Court may appoint:

(a) Two chief deputy municipal court clerks who shall act as the supervisors of the branches of the court and each of whom shall receive the biweekly salary specified in range 45.6 of the salary schedule.

(b) Two deputy municipal court clerks III, each of whom shall receive the biweekly salary specified in range 43.8 of the salary schedule.

(c) Sixteen deputy municipal court clerks II, I, or junior deputy municipal court clerks, each of whom shall receive the biweekly salary specified in ranges 41.9, 37.9, and 33.7, respectively, of the salary schedule.

The position of junior deputy municipal court clerk shall be the entrance position to the clerk's staff. The clerk-administrator may advance any junior deputy municipal court clerk to the position of deputy municipal court clerk I without further examination, if the junior deputy municipal court clerk has served for six months and otherwise meets the qualifications for deputy municipal court clerk I. The clerk-administrator may advance any deputy municipal court clerk I to the position of deputy municipal court clerk II without further examination if the deputy municipal court clerk I has served

for six months and otherwise meets the qualifications for deputy municipal court clerk II.

(d) One account clerk IV who shall receive the biweekly salary specified in range 43.2 of the salary schedule.

SEC. 29. Section 73436.2 of the Government Code is amended to read:

73436.2. The clerk-administrator of the South Kern Municipal Court may appoint:

(a) One chief deputy municipal court clerk who shall act as the supervisor of the branches of the court and who shall receive the biweekly salary specified in range 45.6 of the salary schedule.

(b) Two deputy municipal court clerks III, each of whom shall receive the biweekly salary specified in range 43.8 of the salary schedule.

(c) Twenty deputy municipal court clerks II, I, or junior deputy municipal court clerks, each of whom shall receive the biweekly salary specified in ranges 41.9, 37.9, and 33.7, respectively, of the salary schedule.

The position of junior deputy municipal court clerk shall be the entrance position to the clerk's staff. The clerk-administrator may advance any junior deputy municipal court clerk to the position of deputy municipal court clerk I without further examination, if the junior deputy municipal court clerk has served for six months and otherwise meets the qualifications for deputy municipal court clerk I. The clerk-administrator may advance any deputy municipal court clerk I to the position of deputy court clerk II without examination if the deputy municipal court clerk I has served for six months and otherwise meets the qualifications for deputy municipal court clerk II.

(d) One account clerk IV who shall receive the biweekly salary specified in range 43.2 of the salary schedule.

(e) Two account clerks III, each of whom shall receive the biweekly salary specified in range 40.4 of the salary schedule.

(f) One court interpreter who shall receive the biweekly salary specified in range 42.5 of the salary schedule.

SEC. 30. Section 73437 of the Government Code is amended to read:

73437. (a) Whenever reference to a numbered salary range of the salary schedule is made in any section of this article, the schedule of salary ranges found in the salary ordinance of the County of Kern in effect on January 1, 1991, shall apply. The employees of the municipal courts shall be paid biweekly pursuant to the payroll procedures in effect in the County of Kern.

(b) The minimum salary for each position shall normally be "step A" for the position. If it is difficult to secure qualified personnel at that step or if a person of unusual qualifications is engaged, the court or the clerk-administrator may hire at any step of the salary range applicable to the position.

(c) Any employee who is promoted or whose position is

reclassified from one class position to a higher class position shall be placed in the step level of the higher class salary range which most closely approximates a one-step increase from the former position, except that such increase shall not exceed an amount equivalent to 1.4 steps in the salary schedule. In the event the "A" step of the higher class position is greater than a 1.4-step increase over the salary of the employee in the lower class position, the employee shall be placed at the "A" step in the salary range of the higher class position.

(d) The Board of Supervisors of the County of Kern may adjust the salaries paid to employees of the municipal courts as part of its county employee compensation plan. Such adjustment shall be effective on the same date as the effective date of the action of the board of supervisors to adjust compensation of other county employees. Any adjustment shall be effective only until January 1 of the second year following the year in which the adjustment is made, unless ratified by the Legislature.

(e) In addition to the compensation provided in this article, the attachés of the municipal court shall receive, and they shall be entitled to, the same vacations, sick leaves, and similar privileges and benefits as are now or may hereafter be provided for the employees of the County of Kern, including the right to participate in any group, accident, health or life insurance plan adopted by the Board of Supervisors of the County of Kern.

SEC. 31. Section 73483 of the Government Code is amended to read:

73483. The clerk may appoint:

(a) One municipal courtroom clerk.

(b) One deputy clerk III.

(c) Four deputy clerks II.

(d) Seven deputy clerks I.

(e) One deputy clerk-administrator.

SEC. 32. Section 73484 of the Government Code is amended to read:

73484. There shall be one marshal who shall receive the biweekly salary specified in range 63.75 as set forth in the biweekly salary schedule contained in Section 73486.

Whenever the salary of a related class, or classes, of San Joaquin County employees is adjusted, the salary of the marshal may be adjusted by a percentage not to exceed the percentage of the adjustment applicable to such related class or classes. Any adjustment shall be effective only until January 1 of the second year following the year in which the adjustment is made, unless ratified by the Legislature.

SEC. 33. Section 73485 of the Government Code is amended to read:

73485. The marshal may appoint:

(a) Three deputy marshals.

(b) Two clerk-typists II.

(c) One senior deputy marshal.

SEC. 34. Section 73487 of the Government Code is amended to read:

73487. Persons employed in any of the positions authorized by this article shall be paid the salary assigned to the following ranges as set forth in the biweekly salary schedule contained in Section 73486, except that if the range shown opposite the title of the position includes a fraction, then the person employed in such position shall be paid a salary equal to that shown opposite said fractional range in the salary ordinance of the County of San Joaquin:

Position	Range
(a) Deputy clerk I	47.75
(b) Deputy clerk II	49.75
(c) Deputy clerk III	51.25
(d) Municipal courtroom clerk	54.25
(e) Clerk/Administrator	60.25
(f) Clerk-typist II	47.75
(g) Deputy marshal	58.00
(h) Deputy clerk-administrator	55.50
(i) Senior deputy marshal	60.25

Subject to the provisions of the salary ordinance of the County of San Joaquin, each person employed in the clerk's office or marshal's office may receive an annual increase in salary of one step on his or her assigned range, until the employee reaches the maximum step on the range assigned for his or her position. Thereafter no additional step increase shall be granted.

SEC. 35. Section 73523 of the Government Code is amended to read:

73523. The municipal court judges may, by a majority vote, appoint a municipal court administrator who shall be the clerk of the municipal court. The municipal court administrator shall serve at the pleasure of a majority of the judges. The municipal court administrator shall receive a biweekly salary at the rate specified in salary range number 3778 of the salary schedule. However, that salary may be adjusted pursuant to Section 73525. The municipal court administrator shall be the appointing authority for the positions listed in Section 73524.

The municipal court judges shall prescribe and regulate by majority vote the duties and authority of the municipal court administrator, among which shall be:

(a) To direct and coordinate the nonjudicial activities of the district.

(b) To coordinate the personnel practices in compliance with rules of the district and those of the County of San Mateo.

(c) To prepare and administer the budget of the district.

(d) To coordinate with county agencies, the acquisition, utilization, maintenance, and disposition of facilities, equipment, and supplies necessary for the operation of the district.

(e) To initiate studies and prepare appropriate recommendations and reports to the presiding judge and judges relating to the business of the district, including, but not limited to, such matters as standardization of forms and procedures, and of classification and compensation of court attachés.

(f) To collect, compare, and analyze statistical data on a continuing basis concerning the status of judicial and nonjudicial business of the district and to prepare periodic reports and recommendations based on such data.

(g) To provide for and conduct a program of in-service training for the personnel of the municipal court.

(h) To prepare procedure guides for the personnel of the municipal court.

(i) To make arrangements for and attend all meetings of the judges.

(j) To serve as liaison for the district with other persons, committees, boards, groups, and associations as directed by the presiding judge.

SEC. 36. Section 73524 of the Government Code is amended to read:

73524. The number of positions within each job classification which may be filled by appointment by the municipal court administrator, and the salary which constitutes compensation for each job classification, are as follows, subject to the authority of the board of supervisors to adjust the monthly salary pursuant to Section 73525:

Number	Classification	Salary Range Number
1	Deputy Municipal Court Administrator-Support	2754
1	Deputy Municipal Court Administrator-Operation	2754
1	Financial Services Manager II	2749
3	Court Services Manager II	2348
1	Municipal Court Program Specialist	1868
1	Management Analyst I/II/III	1664/1944/2283
1	Interpreter Services Coordinator	1809
1	Accountant II	1839
1	Executive Assistant	1715
1	Departmental DP Coordinator II	1709
17	Municipal Court Clerk Supervisor	1639
1	Administrative Assistant I	1626
17	Municipal Courtroom Clerk	1621
2	Accountant I	1574

15	Lead Municipal Court Clerk	1422
1	Fiscal Office Specialist	1413
1	Utility Worker III	1400
3	Lead Data Entry Operator	1326
2	Lead Fiscal Office Assistant	1291
1	Office Specialist	1284
4	Administrative Secretary	1284
86	Municipal Court Clerk I/II	1149/1284
11	Fiscal Office Assistant I/II	1032/1188
4	Data Entry Operator II	1181

SEC. 37. Section 73524.1 of the Government Code is amended to read:

73524.1. Whenever reference to a salary other than that of commissioner is made in any section of this article, the schedule of salaries found in the salary and benefits resolution of the County of San Mateo in effect on March 1, 1990, shall apply. However, adjustments to those salaries may be made pursuant to Section 73525.

SEC. 38. Section 73525 of the Government Code is amended to read:

73525. Subject to Section 72001, the compensation for any classification listed in Section 73523 or 73524 may be increased pursuant to the San Mateo County Salary Ordinance Resolution and Memoranda of Understanding, if any, with the recognized labor organizations representing court employees. Whenever a reference to a salary range number is made in this article, the following schedule of biweekly salaries shall apply:

	Steps				
Salary Range Number	A	B	C	D	E
1181	756.00	790.20	844.80	893.60	944.80
1032	660.80	698.40	738.40	780.80	825.60
1188	760.00	804.00	850.40	899.20	950.40
1149	735.20	777.60	822.40	869.60	919.20
1284	821.60	868.80	918.40	971.20	1027.20
1291	826.40	873.60	924.00	976.80	1032.80
1326	848.80	897.60	948.80	1003.20	1060.80
1400	896.00	947.20	1001.60	1059.20	1120.00
1413	904.00	956.00	1011.20	1068.80	1130.40
1422	910.40	962.40	1017.60	1076.00	1137.60
1574	1007.20	1064.80	1126.40	1191.20	1259.20
1621	1037.60	1096.80	1160.00	1226.40	1296.80
1626	1040.80	1100.00	1163.20	1230.40	1300.80
1639	1048.80	1108.80	1172.80	1240.00	1311.10
1709	1093.60	1156.80	1223.20	1292.80	1367.20
1715	1097.60	1160.80	1227.20	1297.60	1372.00
1868	1195.20	1264.00	1336.80	1413.60	1494.40

1839	1176.80	1244.00	1316.00	1391.20	1471.20
1809	1157.60	1224.00	1294.40	1368.80	1447.20
1664	1064.80	1126.40	1190.40	1259.20	1331.20
1944	1244.00	1315.20	1391.20	1471.20	1555.20
2283	1460.80	1544.80	1633.60	1727.10	1826.40
2348	1502.40	1588.80	1680.00	1776.80	1878.40
2749	1750.20	1860.00	1967.20	2080.00	2199.10
2754	1762.40	1864.00	1970.40	2084.00	2203.20
3778	2417.60	2556.80	2703.20	2858.40	3022.40

SEC. 39. Section 73601 of the Government Code is amended to read:

73601. (a) There is one court administrator for the municipal court, who shall be appointed by the board of supervisors with the concurrence of a majority of the judges of the municipal court of the county, and who shall hold office at the judges' pleasure. The court administrator shall receive a monthly salary in the range of three thousand four hundred eighty-seven dollars and forty-seven cents ($3,487.47)—four thousand two hundred forty-one dollars and forty-seven cents ($4,241.47).

(b) Notwithstanding subdivision (a) or any other provision of law, the board of supervisors may appoint or remove any other county officer as court administrator pursuant to the terms and conditions of an agreement approved by a majority of the judges of El Dorado County.

SEC. 40. Section 73602 of the Government Code is amended to read:

73602. The court administrator may, in accordance with the El Dorado County Personnel Rules, appoint the following employees, each of whom shall receive a monthly salary in the range specified:

Position	Salary Range
(a) Three supervising municipal court clerks	$1,676.13–$2,036.67
(b) Three senior municipal court clerks	$1,546.13–$1,880.67
(c) The equivalent of twenty-four and ¾ municipal court clerks I/II	$1,305.20–$1,750.67
(d) Executive secretary	$1,646.67–$2,002.00

SEC. 41. Section 73682 of the Government Code is amended to read:

73682. There shall be one municipal court administrator to be appointed by the judges of the court who shall be the clerk, administrator, and secretary of the court, and the provisions of Section 71183 shall not apply. He or she shall hold office at the pleasure of the judges and shall receive a salary within Band "D" of the Fresno County Salary Resolution.

SEC. 42. Section 73683 of the Government Code is amended to read:

73683. (a) The clerk may appoint the following court personnel

who shall receive a salary at the range indicated in the Fresno County Salary Resolution:

(1) One Administrative Services Assistant at salary within Band "H."

(2) One Administrative Secretary-Conf. at salary range 896.

(3) One Supervising Court Clerk at salary range 1060.

(4) Two Senior Court Clerks at salary range 961.

(5) Seventeen Court Clerks II at salary range 871.

(6) Seventeen Court Clerks I at salary range 792.

(7) Two Court Monitors at salary range 792.

(8) Five Supervising Legal Process Clerks at salary range 1060.

(9) Six Senior Legal Process Clerks at salary range 958.

(10) Ten Legal Process Clerks II at salary range 871.

(11) Ten Legal Process Clerks I at salary range 792.

(12) Thirty-nine Office Assistants III at salary range 585.

(13) Thirty-nine Office Assistants II at salary range 527.

(14) Thirty-nine Office Assistants I at salary range 441.

(15) One Court Interpreting Services Coordinator at salary range 871.

(16) Two Municipal Court Interpreters at salary range 792.

(17) One Secretary to the Municipal Courts III at salary range 776.

(18) One Secretary to the Municipal Courts II at salary range 667.

(19) One Secretary to the Municipal Courts I at salary range 606.

(20) One Assistant Municipal Court Administrator at salary within Band "F."

(21) Three Municipal Court Division Managers at salary within Band "G."

(22) One Research Attorney III at salary range 1704.

(23) One Research Attorney II at salary range 1416.

(24) One Research Attorney I at salary range 1107.

(b) Salary ranges indicated in paragraphs (1) to (24), inclusive, of subdivision (a) are effective December 24, 1990.

(c) The clerk may appoint any combination of court clerks, legal process clerks, and office assistants described in paragraphs (3) to (14), inclusive, of subdivision (a) not to exceed a total of 77; may appoint any combination of secretaries described in paragraphs (17) to (19), inclusive, of subdivision (a) not to exceed a total of one and may appoint any combination of research attorneys described in paragraphs (22) to (24), inclusive, of subdivision (a) not to exceed a total of one.

(d) The clerk may appoint the following court personnel in the Clovis Branch who shall receive a salary at the range indicated in the Fresno County Salary Resolution:

(1) One Court Clerk II at salary range 871.

(2) One Court Clerk I at salary range 792.

(3) One Supervising Legal Process Clerk at salary range 1060.

(4) Five Legal Process Clerks II at salary range 871.

(5) Five Legal Process Clerks I at salary range 792.

(6) Five Office Assistants III at salary range 585.

(7) Five Office Assistants II at salary range 527.

(8) Five Office Assistants I at salary range 441.

(e) Salary ranges indicated in paragraphs (1) to (8), inclusive, of subdivision (d) are effective December 24, 1990.

The clerk may appoint any combination of Court Clerks described in paragraphs (1) and (2) of subdivision (d) not to exceed a total of one, and may appoint any combination of the specified number of personnel in each of paragraphs (4) to (8), inclusive, of subdivision (d) not to exceed a total of five.

SEC. 43. Section 73684 of the Government Code is amended to read:

73684. The biweekly salaries of the following classes of positions shall be in accordance with the following schedule:

Position	Range	1	2	3	4	5
Municipal Court Administrator	Band D	52079	–	–	–	72058
Assistant Municipal Court Administrator	Band F	35173	–	–	–	50933
Municipal Court Division Manager	Band G	29270	–	–	–	42509
Administrative Services Assistant	Band H	21677	–	–	–	34826
Administrative Secretary-Confidential		896	896	941	988	1037	1089
Research Attorney III		1704	1704	1789	1878	1972	2071
Research Attorney II		1416	1416	1487	1561	1639	1721
Research Attorney I		1107	1107	1162	1220	1281	1345
Municipal Court Interpreting Services Coordinator		871	871	915	961	1009	1059
Court Interpreter		792	792	832	874	918	964
Secretary to the Municipal Courts III		776	776	815	856	899	944
Secretary to the Municipal Courts II		667	667	700	735	772	811
Secretary to the Municipal Courts I		606	606	636	668	701	736
Supervising Court Clerk		1060	–	–	–	1227	1288
Senior Court Clerk		961	–	–	–	1112	1168
Court Clerk II		871	871	915	961	1009	1059
Court Clerk I		792	792	832	874	918	964
Court Monitor		792	792	832	874	918	964
Supervising Legal Process Clerk		1060	–	–	–	1227	1288
Senior Legal Process Clerk		958	–	–	–	1109	1164
Legal Process Clerk II		871	871	915	961	1009	1059
Legal Process Clerk I		792	792	832	874	918	964

Office Assistant III	585	585	614	645	677	711
Office Assistant II	527	527	553	581	610	641
Office Assistant I	441	441	463	486	510	536

Except as specifically provided in this article to the contrary, all benefits, privileges and other provisions affecting the employment of county employees shall apply to all officers and attachés of the municipal court.

SEC. 44. Section 73686 of the Government Code is amended to read:

73686. Any officer or attaché of the court who receives a promotion to a position having an overlapping salary range shall be placed upon the step of the new salary range consistent with the Fresno County Salary Resolution.

SEC. 45. Section 73687 of the Government Code is amended to read:

73687. The minimum salary for each position shall normally be the initial hiring rate for the position. If it is difficult to secure qualified personnel at that rate or if a person of unusual qualifications is engaged, the court or the clerk, as the case may be, may request to hire at a higher step consistent with the Fresno County Salary Resolution.

SEC. 46. Section 73691 of the Government Code is amended to read:

73691. A majority of the judges may appoint 11 full-time court reporters to serve at the pleasure of the judges and to be paid an annual salary established according to the following salary schedule:

Step 1. $38,555
Step 2. $40,486
Step 3. $42,491
Step 4. $44,615

Reporters shall initially be placed at step 1 of the salary schedule except reporters may be placed at a higher step with the approval of the county administrative officer, and shall be advanced one step annually upon the anniversary date of such employment. If, because of recruitment difficulties, it is necessary to appoint a court reporter at a step of the salary schedule which is above the step at which any court reporters are currently employed, all court reporters below that step will move to the higher step at the discretion of the judges of the court. Each such reporter shall accrue and be entitled to receive sick leave benefits at the rate of 3.6924 hours of sick leave with pay for each pay period or major fraction thereof, served up to an accumulative total of 156 working days. Each such reporter shall accrue and receive vacation at the same rate as judges of such court not to exceed 21 working days a year which may be accrued not to exceed 42 days to be taken at such time as the judge to which he or she has been assigned consents.

SEC. 47. Section 73692 of the Government Code is amended to read:

73692. Pursuant to Section 72194, the judges of the court may appoint as many additional reporters as the business of the court requires, who shall be known as official reporters pro tempore. They shall serve without salary but shall receive the fees provided by Sections 69947 to 69953, inclusive, except that in lieu of the per diem fees provided in the section for reporting testimony and proceedings the official reporters pro tempore shall be paid in accord with the following:

Each pro tempore reporter shall be paid one hundred forty-eight dollars and twenty-nine cents ($148.29) for a full day on duty under order of the court. For purposes of receiving the above compensation, one or more of the following shall apply:

(1) The court has indicated in advance that the pro tempore assignment is for a full day.

(2) The pro tempore reporter was on duty for more than four hours.

Each pro tempore reporter shall be paid eighty-six dollars and thirty-eight cents ($86.38) for one half day of duty under order of the court when (a) the court has indicated in advance that the pro tempore assignment is for a half day and the pro tempore reporter is on duty for four hours or less, generally exclusive of the noon recess; or (b) the court has indicated in advance that the pro tempore assignment is for a full day but the pro tempore reporter is on duty for four hours or less and consents to being released for the balance of the day.

Where a pro tempore reporter has agreed to a one-half day assignment, the courts shall make every practicable effort to assure that the pro tempore reporter shall not be on duty for longer than four hours, unless the pro tempore reporter agrees with the court to work beyond four hours. In the latter case, the full-day pro tempore rate of one hundred forty-eight dollars and twenty-nine cents ($148.29) shall apply.

Nothing herein shall be construed to limit the court's authority to in all instances pay a pro tempore reporter at the rate of one hundred forty-eight dollars and twenty-nine cents ($148.29) when, in the court's judgment, that rate is necessary to obtain pro tempore reporter services for the court.

The above payments shall upon order of the court be a charge against the general fund of the county.

SEC. 48. Section 73695 of the Government Code is amended to read:

73695. Interpreters appointed by the court pursuant to Section 68092 shall be allowed for each day's actual attendance upon the court when legally required, such fee as may be allowed by the court not to exceed one hundred twenty dollars ($120) per day or seventy-five dollars ($75) per half day provided that the amount allowed to any one person when added to any fee received as interpreter appointed to serve this court or any other court within the County of Fresno may not in the aggregate exceed one hundred

twenty dollars ($120) for any one day, except where the interpreter has worked beyond 5 p.m., in which case the interpreter will be paid at an additional rate of ten dollars ($10) per hour for all hours or portions thereof worked after 5 p.m.

SEC. 49. Section 73705 of the Government Code is amended to read:

73705. The clerk may appoint:

(a) Two chief deputy clerks who shall be administrative officers.

(b) Thirteen deputy clerks II.

(c) Fifteen deputy clerks I.

(d) Two deputy clerk-administrators.

SEC. 50. Section 73706 of the Government Code is amended to read:

73706. There shall be one marshal who shall receive the biweekly salary specified in range 63.75 as set forth in the biweekly salary schedule contained in Section 73709. Whenever the salary of a related class, or classes, of San Joaquin County employees is adjusted, the salary of the marshal may be adjusted by a percentage not to exceed the percentage of the adjustment applicable to such related class or classes. Any adjustment shall be effective only until January 1 of the second year following the year in which the adjustment is made, unless ratified by the Legislature.

SEC. 51. Section 73708 of the Government Code is amended to read:

73708. The marshal may appoint:

(a) Two senior deputy marshals.

(b) Five deputy marshals.

(c) Two specialist clerks.

SEC. 52. Section 73710 of the Government Code is amended to read:

73710. Persons employed in any of the positions authorized by this article shall be paid the salary assigned to the following ranges as set forth in the biweekly salary schedule contained in Section 73709, except that if the range shown opposite the title of the position includes a fraction then the person employed in such position shall be paid a salary equal to that opposite said fractional range in the salary ordinance of the County of San Joaquin.

Position	Range
(a) Deputy clerk I	47.75
(b) Deputy clerk II	49.75
(c) Chief deputy clerk	59.25
(d) Clerk	53.75
(e) Clerk-typist II	47.75
(f) Senior deputy marshal	60.25
(g) Deputy marshal	58.00
(h) Deputy clerk administrator	55.50

Subject to the provisions of the salary ordinance of the County of

San Joaquin, each person employed in the clerk's office or the marshal's office may receive an annual increase in salary of one step on his or her assigned range, until the employee reaches the maximum step on the range assigned for his or her position. Thereafter, no additional step increase shall be granted.

SEC. 53. Section 73713 of the Government Code is amended to read:

73713. Whenever the salary of a related class, or classes, of San Joaquin County employees is adjusted, the salary of the following classes may be adjusted by a percentage not to exceed the percentage of adjustment granted to the class, or classes, deemed by the board of supervisors to be related:

(a) Deputy clerk I
(b) Deputy clerk II
(c) Chief deputy clerk
(d) Clerk
(e) Clerk-typist II
(f) Senior deputy marshal
(g) Deputy marshal
(h) Deputy clerk-administrator

All adjustments to the salaries of the above-named classes shall be effective as of the same date as the adjustment for the class, or classes, deemed to be related, and shall be effective only until January 1 of the second year following the year in which the adjustment is made, unless ratified by the Legislature.

SEC. 54. Section 73772 of the Government Code is amended to read:

73772. There shall be one clerk, who shall be the administrative officer of the court and who shall receive an annual salary recommended by the municipal court and approved by the board of supervisors.

Any change in the salaries in effect immediately prior to January 1, 1991, shall be on an interim basis and shall expire on January 1 of the second calendar year after the calendar year in which the change occurs, unless ratified by the Legislature.

SEC. 55. Section 73773 of the Government Code is amended to read:

73773. (a) The clerk, with the approval of the judges of the court, may appoint the following employees:

(1) One assistant clerk administrative officer.
(2) One administrative services assistant II.
(3) Four supervising legal clerks.
(4) One accountant II.
(5) Ten courtroom clerks.
(6) Three senior legal clerks.
(7) Thirteen legal clerks III.
(8) Fourteen legal clerks II.
(9) One deputy clerk I.
(10) Ten legal clerks I.

(11) One senior secretary.
(12) One senior accounting assistant.
(13) Two accounting assistants.
(14) Four intermediate clerk typists.
(15) One judicial support clerk.
(16) Such other employees as the board of supervisors approve upon the recommendation of the municipal court, each of which shall receive a salary recommended by the municipal court and approved by the board of supervisors.

Any appointee shall be compensated at the first step and advanced to each higher step upon completion of the probationary period and each successive 12 months of service thereafter. Upon the recommendation of the municipal court and approval of the board of supervisors, such employees may be employed at, or may be granted, a special step increase to any step within the salary range on the basis of experience and qualifications.

(b) Any change in the salaries in effect immediately prior to January 1, 1991, shall be on an interim basis and shall expire on January 1 of the second calendar year after the calendar year in which the change occurs, unless ratified by the Legislature.

SEC. 56. Section 73793 of the Government Code is amended to read:

73793. There shall be one administrative officer of the court known as the municipal court clerk-administrator, who shall be appointed by a majority of the judges of the court. The court clerk-administrator shall receive a biweekly salary on range 66.3.

SEC. 57. Section 73796 of the Government Code is amended to read:

73796. There shall be one marshal of the Merced County Municipal Court. The marshal shall receive a salary on range 64.7.

When a vacancy occurs in the office, a majority of the superior and municipal court judges shall appoint the marshal and the marshal shall serve at their pleasure.

SEC. 58. Section 73797 of the Government Code is amended to read:

73797. (a) The marshal may appoint:
(1) One assistant marshal on range 62.1.
(2) One marshal's sergeant on range 58.9.
(3) Thirteen deputy marshals on range 56.3.
(4) Four civil assistants on range 49.2.

(b) The initial appointments to the positions of assistant marshal and deputy marshal shall be made from persons who have served as constables in a justice court in Merced County during the year of 1976. Such appointees shall become deputy marshals and receive the salary provided at the fifth step of the range designated for deputy marshal. The assistant marshal initially appointed shall receive the salary provided at the fifth step of the range designated for assistant marshal.

SEC. 59. Section 73798 of the Government Code is amended to

read:

73798. The clerk-administrator may appoint:

(a) One assistant municipal court administrator on range 58.7.

(b) Four supervising municipal court clerks I on range 53.7.

(c) Eleven municipal court clerks II on range 49.2.

(d) Twenty-six municipal court clerks I on range 46.7.

(e) One supervising account clerk I on range 49.7.

(f) Three account clerks I on range 45.4.

(g) Two typist-clerks II on range 43.8.

(h) One municipal court services officer on range 54.5.

(i) One typist-clerk III on range 46.8.

(j) One own recognizance release officer on range 51.5.

SEC. 60. Section 73822 of the Government Code is amended to read:

73822. There is one court administrator for the municipal court, who shall be appointed by the judges of the court, and who shall hold office at the judges' pleasure. The court administrator shall receive a monthly salary in the range of two thousand eight hundred seventy dollars and sixty-seven cents ($2,870.67)—three thousand four hundred eighty-nine dollars and thirty-two cents ($3,489.32).

SEC. 61. Section 73823 of the Government Code is amended to read:

73823. The court administrator may, in accordance with the Nevada County Personnel Rules, appoint the following employees, each of whom shall receive a monthly salary in the range specified:

Position	Salary Range
(a) 2 supervising municipal court assistants —Range 154	$1,732.23–2,105.54
(b) 2 municipal court assistants III's—Range 124	$1,496.38–1,818.84
(c) 16.5 municipal court assistants II's—Range 104	$1,357.24–1,649.74
(d) 3 municipal court assistants I's—Range 74	$1,172.44–1,425.12

SEC. 62. Section 73959 of the Government Code is amended to read:

73959. By order entered in the minutes of the court, a majority of judges may appoint three judicial secretaries or supervising judicial secretaries, as the case may be, who shall serve at the pleasure of the judges. The classification of supervising judicial secretary shall be limited to one position, and this one position only may be authorized by joint action of a majority of the judges and the board of supervisors pursuant to subdivision (s) of Section 73954. The supervising judicial secretary shall receive a biweekly salary at a rate equal to that specified for the classification of criminal legal secretary III in the classified service of the County of San Diego commencing at step 4 at initial employment and advancing to step 5 at the end

of one year of continuous service. The position of supervising judicial secretary shall be deemed comparable to the position of criminal legal secretary III in the classified service of San Diego County. Whenever the salary of the class of criminal legal secretary III is adjusted by the Board of Supervisors of San Diego County, the salary of the class of supervising judicial secretary shall be adjusted a commensurate percentage in the salary schedule on the same date. Each judicial secretary shall receive a biweekly salary at a rate equal to that specified for administrative secretary IV in the classified service of the County of San Diego commencing at step 4 at initial employment and advancing to step 5 at the end of one year of continuous service. The position of judicial secretary shall be deemed comparable to the position of administrative secretary IV in the classified service of San Diego County. Whenever the salary of the class of administrative secretary IV is adjusted by the Board of Supervisors of San Diego County, the salary of the class of judicial secretaries shall be adjusted a commensurate percentage in the salary schedule on the same date. Notwithstanding the provisions of subdivision (a) of Section 73957, the classifications of supervising judicial secretary and judicial secretary, respectively, shall receive and be entitled to the same number of holidays, leaves of absence, retirement, and all other fringe benefits as are now or may hereafter be provided for the classifications of criminal legal secretary III and administrative secretary IV, respectively, in the classified service of the County of San Diego. However, the classifications of supervising judicial secretary and judicial secretary shall be entitled to: (a) earn sick leave credit at the rate of 5.385 percent of each hour of paid service during the pay period; (b) earn vacation credit at the rate of 5.769 percent of each hour of paid service during the pay period and accumulate vacation credit not to exceed 25 working days where the employee has less than 10 years of continuous service; and (c) earn vacation credit at the rate of 8.075 percent of each hour of paid service during the pay period and accumulate vacation credit not to exceed 35 working days where the employee has 10 years or more of continuous service.

SEC. 63. Section 74002 of the Government Code is amended to read:

74002. (a) There shall be one executive officer-municipal court for each judicial district who shall serve as the clerk and administrative officer and who shall be appointed by, and serve at the pleasure of, a majority of the judges of the court, or in the case of an equal division of the judges of the court, the senior judge of the court, and who shall receive an annual salary within salary range ML-E as determined jointly by the Judges Personnel Committee and board of supervisors. Commencing, June 26, 1992, the salary for executive officers shall be uniform among the courts.

(b) Each executive officer-municipal court officer may appoint one assistant executive officer-municipal court, who shall serve as chief deputy clerk and who shall receive an annual salary of 80

percent of the annual salary for the appointing executive officer.

(c) The salaries set pursuant to this section shall be on an interim basis and shall expire on January 1 of the second year following the year in which the salary is set.

SEC. 64. Section 74004 of the Government Code is amended to read:

74004. (a) The number of positions within each job classification which may be filled by appointment by the executive officer/clerk, respectively, of each such court, and the number of the salary range set forth in Section 74005 which constitutes the compensation for each job classification, are shown in the table below, in which the various municipal courts are designated by column headings from left to right, in the same order as that in which their judicial districts are named in Section 74000:

Class Code	Title Classification	Salary Range	NOC	COC	WOC	OCH	SOC
0359	Collection Officer, MC	A-47	0	0	1	0	0
0414	Data Entry Specialist, MC	D-39 S/2	0	1	0	0	1
0416	Data Entry Tech., MC	D-37 S/3	15	17	14	12	9
0439	Secretary II, MC	D-40	0	0	1	0	0
0442	Secretary III, MC	D-44	0	0	0	1	0
0454	Syst/Programmer Analyst I, MC	A-60	0	1	1	1	1
0566	Judicial Sec'y I, MC	D-40 S/2	1	1	0	1	1
0569	Judicial Sec'y. II, MC	D-44	2	0	2	1	0
0570	Executive Secretary, MC	D-48	1	2	1	0	2
0703	Appeals Clerk, MC	D-37	0	0	0	1	1
0705	Deputy Clerk I, MC	D-33 S/5	50	62	46	27	45
0708	Deputy Clerk II, MC	D-35 S/3	24	30	23	38	23
0711	Deputy Clerk III, MC	D-40	11	9	12	11	8
0712	Judicial Ass't., MC	D-52	1	1	1	1	1
0713	Senior Judicial Ass't, MC.	D-54	1	1	1	1	1
0714	Deputy Clerk IV, MC	D-42	2	2	0	0	0
0718	Supv Deputy Clerk I, MC	D-43	2	4	1	0	1
0719	Supv. Deputy Clerk II, MC	D-46	2	5	4	4	5
0725	Division Manager II, MC	E-58	6	6	6	6	6
0740	Staff Development Spec, MC	A-56	0	1	0	0	0
0741	Electronic Recording Monitor	D-37	3	0	0	0	0
0742	Cert. Court Interpreter, MC	A-48	3	0	3	2	1
0745	Courtroom Clerk, MC	D-50	22	26	21	17	14
2381	Municipal Court Judicial Hearing Officer	Flat 54,665	0	2	0	0	0

7509	Detention Release Officer	A-57 S/3	0	8	0	0	0
7510	Sr. Detention Release Officer	A-59	0	6	0	0	0
7511	Supv. Det. Rel Officer.	A-63	0	1	0	0	0
7915	Info. Systems Tech. II, MC	A-55	1	0	0	0	0
7919	Systems/Programmer Analyst II, MC	A-64	1	0	0	0	1
7928	Sr. Systems/Programmer Analyst, MC	A-70	1	1	1	1	1
8005	Senior Staff Analyst	ML-5	2	2	2	2	2
8449	ASA Municipal Court	E-63	0	1	1	1	0

(b) The Legislature finds and declares that the matter of appointing, promoting, demoting, and dismissing persons in positions with the municipal courts and all other aspects of the personnel management of municipal courts of Orange County is one for local concern. It further finds and declares that wherever possible such personnel management may grant to persons in positions with the municipal courts similar treatment with persons in positions with the County of Orange who are performing similar duties and who possess similar qualifications.

(c) To achieve the legislative intent expressed in subdivisions (a) and (b), the municipal courts of Orange County may create a personnel committee consisting of five judges selected one from each court by a majority vote of the judges of the respective courts, or where there is an equal division of the judges of a court, by the senior judge of that court. The personnel committee may adopt rules and regulations providing for a personnel system for all municipal courts of Orange County which may provide for similar treatment for employees and attachés of the several courts as is provided for Orange County employees generally. In so providing for a personnel system, the judges may adopt all or any part of the personnel and salary resolution or appropriate memoranda of understanding of the County of Orange.

(d) With the approval of the board of supervisors, the personnel system adopted by the personnel committee and made applicable to all the municipal courts of Orange County may be administered by the County of Orange through its personnel department. The board of supervisors may withdraw its approval at any time.

(e) If an increase in the business of the court or any other emergency requires a greater number of attachés or employees for the prompt and faithful discharge of the business of the court than the number expressly provided in this article or requires the performance of duties of positions in a class not expressly provided in this article, a majority of the judges of any of the courts, with the approval of the board of supervisors, may establish additional titles, pay rates, and positions as they deem necessary for the performance of the duties and exercise of the powers conferred by law upon the

courts. Rates of compensation of such other officers, attachés, and employees may be set by joint action and approval of the board of supervisors and a majority of the municipal court judges of Orange County. The establishment of additional titles, positions, and pay rates and changes in compensation made pursuant to this subdivision shall be on an interim basis and shall expire on January 1 of the second year following the year in which such establishment or change is made. The provisions of this section are directory only and are not intended to affect the application of Section 72150.

SEC. 65. Section 74010 of the Government Code is amended to read:

74010. (a) There shall be one marshal, designated as the Marshal of Orange County, for the superior and municipal courts established in Orange County. The marshal shall serve at the pleasure of a majority of the judges of the superior and municipal courts in the county.

The salary range of the marshal shall be 10 percent higher than the salary range of the assistant marshal, and the marshal's salary shall be determined by the Joint Marshal Personnel Committee within that range.

(b) The marshal shall possess the rights and powers and perform the duties imposed upon marshals of courts generally and, when so authorized by the board of supervisors pursuant to Section 74007, within Orange County, shall exercise all powers and perform all duties imposed upon sheriffs with respect to proceedings in the superior court.

(c) Whenever a vacancy occurs in the position of Marshal of Orange County, the judges of the superior court and all the municipal courts in Orange County by a majority vote of their aggregate number, shall select and appoint the marshal under such organization, rules, and procedures as they adopt or ratify therefor. Discharge of the marshal shall be by majority vote of the judges of the municipal courts and the superior court.

(d) There shall be one assistant marshal, appointed by and serving at the pleasure of the marshal. This appointment shall require the concurrence of a majority of the members of the Joint Marshal Personnel Committee. Discharge of the assistant marshal shall be at the direction of the marshal and shall require the concurrence of a majority of the members of the Joint Marshal Personnel Committee.

(e) The salary range of the assistant marshal shall be 20 percent higher than the range of captain in the marshal's department. The salary of the assistant marshal may be adjusted annually, within its range, by the marshal with concurrence of the Joint Marshal Personnel Committee.

(f) The establishment of any range higher than provided above for the marshal and assistant marshal shall be effective only until January 1 of the second year following the year in which the establishment or change is made.

(g) A branch office of the Marshal of Orange County shall be

maintained in each superior and municipal court district facility, except where those facilities are shared, in which case one office may serve the needs of both courts.

SEC. 66. Section 74011 of the Government Code is amended to read:

74011. (a) The Legislature finds and declares that the matter of appointing, promoting, demoting, and dismissing persons in positions in the marshal's department and all other aspects of the personnel management of the Marshal of Orange County is one of local concern. It further finds and declares that wherever possible that personnel management may grant to persons in positions with the marshal's department similar treatment with persons in positions with the County of Orange who are performing similar duties and who possess similar qualifications.

(b) To achieve this legislative intent, the courts of Orange County shall create a personnel committee consisting of five judges, who will comprise the Joint Marshal Personnel Committee. There shall be two judges representing the municipal courts selected by a majority vote of the judges on the Municipal Court Judges Personnel Committee. There shall be two judges representing the superior court selected by a majority vote of the members of the Superior Court Marshal's Personnel Committee. The fifth member of the committee shall be selected by a majority vote of the aforementioned four members and may be selected from judges of either the municipal or superior court. If the four members cannot agree upon a fifth member, then the fifth member shall be selected by the judges of the superior court and the judges of the municipal courts in Orange County by a majority vote of their aggregate number. The five members shall, by majority vote, select one member to act as the committee's chair. The selection of the members of the Joint Marshal Personnel Committee shall occur no later than the 31st of January of each year with the term of office to be one year. Vacancies that occur within the term of appointment shall be filled by the original appointing body.

(c) The Joint Marshal Personnel Committee may adopt rules and regulations for a personnel system for employees of the marshal's department. The Joint Marshal Personnel Committee shall hear all grievances referred to step 3 of a grievable action. The Joint Marshal Personnel Committee may adopt all or any part of the personnel and salary resolution or appropriate memoranda of understanding of the County of Orange. The Joint Marshal Personnel Committee may, by majority vote, make policies and adopt procedures pertaining to the operations of the marshal's department. Except as provided in this section, provisions relating to compensation or benefits shall require the concurrence of the board of supervisors.

(d) The first one year served by a deputy marshal, court services officer, administrative manager, lieutenant or captain appointee, and the first six months served by any other appointee, shall be considered a probationary period, except for appointment to classes

of positions serving at the pleasure of the appointing authority. The marshal shall have the power to dismiss without cause, in the case of a new employee, or to demote without cause, in the case of a promoted employee, during that probationary period.

(e) With the approval of the board of supervisors, the personnel system adopted by the Joint Marshal Personnel Committee may be administered by the County of Orange through its personnel department.

SEC. 67. Section 74012 of the Government Code is amended to read:

74012. The marshal may make the following appointments at the designated salary ranges:

Title of Job Classification	Applicable Pay Range Number	Number of Positions Authorized
Captain	MM2	3
Lieutenant	MM1	9
Sergeant	P11	20
Marshal's Investigator II	P9 S/3	7
Marshal's Investigator I	P6 S/3	13
Deputy Marshal II	P3	28
Deputy Marshal I	P1	216
Court Services Officer	A42	38
Senior Court Services Officer	A46	4
Administrative Manager I	ML6	1
Systems/Programmer Analyst II—Marshal	A64	2
Secretary III—Marshal	D44	1
Executive Secretary I—Marshal	D48	1
Supervising Clerk III—Marshal	D45	1
Supervising Clerk II—Marshal	D42	1
Senior Chief Clerk—Marshal	D48	1
Chief, Civil Process	D50	5
Civil Process Supervisor	D44	5
Civil Process Technician	D39	34
Information Processing Technician—Marshal	D37 S/3	9
Clerk III, Marshal	D38	3
Clerk II, Marshal	D35 S/3	2
Marshal Technician	D38	16
Radio Dispatcher—Marshal	A49	2
Deputy Marshal Trainee	PA S/12	6
Investigation Aide—Marshal	D38	1
Micrographics Processing Techician—Marshal	A39	1

Accounting Assistant—		
Marshal	D36 S/3	1
Office Technician—Marshal	D33 S/5	1

SEC. 68. Section 74013 of the Government Code is amended to read:

74013. (a) It is the intent of the county to maintain parity in salary and benefits between those employees in the marshal's department and employees in the same or comparable classes for other departments. When the salary of a class in the service of Orange County is adjusted by the board of supervisors, the salary of the equivalent class in the marshal's department shall be adjusted in the same amount and at the same time. Salaries for classes not considered equivalent shall be adjusted based on internal relationships and other criteria customarily used in setting salaries in other county classes. In the event that a system of merit pay increases is established by the County of Orange for employees, merit increases, if justified, may be authorized by the Joint Marshal Personnel Committee for employees with similar qualifications and experience in equivalent classifications. Designation of certain classes as equivalent positions shall be as follows, except that their designation as equivalent positions may be changed or deleted at any time following a classification study and an agreement between the county and the Joint Marshal Personnel Committee.

Marshal Classification	County Classification
Management	
Captain, Marshal's Department	Captain
Lieutenant, Marshal's Department	Lieutenant
Safety Members	
Sergeant, Marshal's Department	Sergeant
Marshal's Investigator II	Investigator
Marshal's Investigator I	Investigator (less three salary ranges)
Deputy Marshal II	Deputy Sheriff II
Deputy Marshal I	Deputy Sheriff I
Deputy Marshal Trainee	Deputy Sheriff Trainee
General Classes	
Administrative Manager I—Marshal	Administrative Manager I
Systems/Programmer Analyst II—Marshal	Systems/Programmer Analyst II

Radio Dispatcher—Marshal	Radio Dispatcher
Investigation Aid—Marshal	Investigation Aid—Sheriff

Clerical Classes

Executive Secretary I—Marshal	Executive Secretary I
Secretary III—Marshal	Secretary III
Supervising Clerk III—Marshal	Office Supervisor D (less one salary range)
Supervising Clerk II—Marshal	Office Supervisor B
Civil Process Supervisor—Marshal	Office Supervisor B
Civil Process Technician—Marshal	Office Specialist
Clerk III—Marshal	Office Specialist (less one salary range)
Clerk II—Marshal	Information Processing Specialist I
Accounting Assistant II—Marshal	Accounting Assistant II
Office Technician—Marshal	Office Technician
Information Processing Technician—Marshal	Information Processing Technician
Micrographics Processing Technician—Marshal	Micrographics Processing Technician

Positions in these classes within the marshal's department shall not be paid less salary than positions in equivalent county classifications.

(b) If an increase in the business of the court or any other business necessity requires a greater number of attachés or employees for the prompt and faithful discharge of the business of the court than the number expressly provided in this article, or requires the performance of duties of positions in a class not expressly provided in this article, the Joint Marshal Personnel Committee, with the approval of the board of supervisors, may establish additional titles, pay rates, and positions as they deem necessary for the performance of the duties and exercise of the powers conferred by law upon the court. Rates of compensation of these officers, attachés, and employees may be set by joint action and approval of the board of supervisors and the Joint Marshal Personnel Committee. The establishment of additional titles, positions, and pay rates and changes in compensation pursuant to this subdivision shall be effective only until January 1 of the second year following the year in which the establishment or change is made. This section shall not affect the appointment of additional deputy marshals pursuant to

Section 72150.

SEC. 69. Section 74192 of the Government Code is amended to read:

74192. (a) There shall be one clerk/administrator who shall be appointed by the judges of the court and who shall be clerk of the court. The clerk/administrator shall receive a biweekly salary at a rate specified in range 2881. The position of clerk/administrator shall not be deemed a civil service position. The clerk/administrator shall be the appointing authority for the positions set forth in this section. Each person appointed shall serve at the pleasure of the clerk/administrator.

(b) There shall be two assistant clerk/administrators. The assistant clerk/administrators for the court shall receive a biweekly salary at a rate specified in range 2369. The positions of assistant clerk/administrator for the court shall not be deemed a civil service position.

(c) There shall be one director of administrative services. The director of administrative services for the court shall receive a biweekly salary at a rate specified in range 2148. The position of director of administrative services shall not be deemed a civil service position.

(d) There shall be one director of management information services. The director of management information services for the court shall receive a biweekly salary at a rate specified in range 2202. The position of director of management information shall not be deemed a civil service position.

(e) There shall be six court process managers. Each court process manager for the court shall receive a salary at a rate specified in range 1650. The positions of court process manager for the court shall not be deemed civil service positions.

(f) There shall be one system manager coordinator. The system manager coordinator shall receive a biweekly salary at a rate specified in range 1928. The position of system manager coordinator shall not be deemed a civil service position.

(g) There shall be one court interpreter. The court interpreter shall receive a biweekly salary at a rate specified in range 1137. The position of court interpreter shall not be deemed a civil service position.

(h) There shall be one senior court interpreter. The senior court interpreter shall receive a biweekly salary at a rate specified in range 1199.

The position of senior court interpreter shall not be deemed a civil service position.

(i) There shall be 15 court process supervisors. The court process supervisors shall receive a biweekly salary at a rate specified in range 1251.

The positions of the court process supervisor for the court shall not be deemed civil service positions.

(j) There shall be three administrative service officers II. The

administrative service officers II for the court shall receive a biweekly salary at a rate specified in range 1766. The positions of administrative service officers II shall not be deemed civil service positions.

(k) There shall be one administrative services officer I. The administrative services officer I for the court shall receive a biweekly salary at a rate specified in range 1464. The position of administrative services officer I shall not be deemed a civil service position.

(*l*) There shall be one associate administrative analyst II. The associate administrative analyst II shall receive a biweekly salary at a rate specified in range 1766. The position of associate administrative analyst II shall not be deemed a civil service position.

(m) There shall be one accountant IV. The accountant IV shall receive a biweekly salary at a rate specified in range 1863. The position of accountant IV shall not be deemed a civil service position.

(n) There shall be one court process supervisor, confidential. The court process supervisor, confidential, shall receive a biweekly salary at a rate specified in range 1309. The position of court process supervisor, confidential, shall not be deemed a civil service position.

(o) There shall be one accountant II. The accountant II shall receive a biweekly salary at a rate specified in range 1464. The position of accountant II shall not be deemed a civil service position.

(p) There shall be two departmental systems analyst/programmers. The departmental systems analyst/programmers shall receive a biweekly salary at a rate specified in range 2001. The positions of departmental systems analyst/programmer shall not be deemed civil service positions.

(q) There shall be one accounting technician. The accounting technician shall receive a biweekly salary at a rate specified in range 1250. The position of accounting technician shall not be deemed a civil service position.

(r) There shall be one department secretary. The department secretary shall receive a biweekly salary at a rate specified in range 1291. The position of department secretary shall not be deemed a civil service position.

(s) There shall be three supervising municipal courtroom clerks. The supervising municipal courtroom clerks shall receive a biweekly salary at a rate specified in range 1559. The positions of supervising municipal courtroom clerk shall not be deemed civil service positions.

(t) There shall be eight pretrial release interviewers. The pretrial release interviewers shall receive a biweekly salary at a rate specified in range 1077. The position of pretrial release interviewer shall not be deemed a civil service position.

(u) There shall be one departmental data processing technician III. The departmental data processing technician III shall receive a biweekly salary at a rate specified in range 1319. The position of departmental data processing technician III shall not be deemed a civil service position.

SEC. 70. Section 74193 of the Government Code is amended to read:

74193. The administrator shall appoint:

(a) One hundred thirty-one deputy clerks, who shall be associate court process clerks, and who shall each receive a biweekly salary at a rate specified in range 912 for level II and in range 845 for level I.

(b) Thirty-one deputy clerks, who shall be senior court process clerks and who shall each receive a biweekly salary at a rate specified in range 1024.

(c) Three half-time deputy clerks, who shall be associate court process clerks and who shall receive a biweekly salary at a rate specified in range 912 for level II and in range 845 for level I.

(d) Thirty-one deputy clerks, who shall be courtroom clerks and who shall each receive a biweekly salary at a rate specified in range 1306 for level II and in range 1164 for level I.

(e) Four deputy clerks who shall be court process specialists and who shall each receive a biweekly salary at a rate specified in range 1079.

(f) Two deputy clerks, who shall be departmental data-processing technicians II and who shall each receive a biweekly salary at a rate specified in range 1160.

(g) Eight deputy clerks, who shall be account clerks II and who shall each receive a biweekly salary at a rate specified in range 999.

(h) Two deputy clerks, who shall be account clerks III and who shall each receive a biweekly salary at a rate specified in range 1079.

(i) One deputy clerk, who shall be a legal secretary II and who shall receive a biweekly salary at a rate specified in range 1079.

(j) Two deputy clerks, who shall be legal secretaries II, confidential, and who shall receive a biweekly salary at a rate specified in range 1151.

(k) One deputy clerk, who shall be a senior personnel clerk and who shall receive a biweekly salary at a rate specified in range 1062.

SEC. 71. Section 74201 of the Government Code is amended to read:

74201. (a) There shall be one pretrial release program manager. The appointing authority for the position shall be the judges of the Sacramento Municipal Court. The position shall not be deemed to be a civil service position and the incumbent shall serve at the pleasure of the judges of the Sacramento Municipal Court. The salary range for the position shall be 1864.

(b) There shall be one attorney IV. The appointing authority for the position shall be the judges of the Sacramento Municipal Court. The position shall not be deemed a civil service position and the incumbent shall serve at the pleasure of the judges of the Sacramento Municipal Court. The salary range for the position shall be 2869.

SEC. 72. Section 74207 of the Government Code is amended to read:

74207. There shall be one clerk/administrator who shall be appointed by the judge of the court and who shall be clerk of the

court. The clerk/administrator shall receive a biweekly salary at a rate specified in range 1923. The position of clerk/administrator shall not be deemed to be a civil service position.

SEC. 73. Section 74208 of the Government Code is amended to read:

74208. There shall be the following positions for which the appointing authority shall be the clerk/administrator:

(a) Two court process specialists who shall receive a biweekly salary at a rate specified in range 1079.

(b) One senior court process clerk who shall receive a biweekly salary at a rate specified in range 1024.

(c) Three associate court process clerks II who shall receive a biweekly salary at a rate specified in range 0912.

(d) One municipal courtroom clerk II who shall receive a biweekly salary at a rate specified in range 1306.

(e) One accounting technician who shall receive a biweekly salary at a rate specified in range 1250. The position of accounting technician shall not be deemed a civil service position.

SEC. 74. Section 74604 of the Government Code is amended to read:

74604. There shall be one clerk of the court known as the court executive officer, who shall be appointed by the presiding judge with the concurrence of a majority of the judges of the court, and shall hold office at the pleasure of the majority of the judges. The monthly compensation to be paid to the court executive officer shall be Range 2672, Step 5, of the San Luis Obispo County Salary Table. In addition to any other duties imposed on such officer by law, the court executive officer shall have the following duties:

(a) To direct and coordinate the nonjudicial activities of the court.

(b) To coordinate the personnel practices in compliance with rules of the court.

(c) To prepare and administer the budget of the court.

(d) To coordinate with other county agencies the acquisition, utilization, maintenance and disposition of county facilities, equipment and supplies necessary for operation of the court.

(e) To initiate studies and prepare appropriate recommendations and reports to the presiding judge relating to the business of the court, including, but not limited to, such matters as standardization of forms, procedures, and classification and compensation of officers and employees.

(f) To collect, compare, and analyze statistical data on a continuing basis concerning the status of judicial and nonjudicial business of the court and to prepare periodic reports and recommendations based on such data.

(g) To serve as liaison for the court with other persons, committees, boards, groups, and associations as directed by the presiding judge.

(h) To provide for and conduct a program of in-service training for the personnel of the municipal court.

SEC. 75. Section 74607 of the Government Code is amended to read:

74607. (a) The presiding judge may make appointments to the following authorized positions:

Number	Classification	Salary Range
1	Assistant Court Executive Officer	1820
1	Calendar Coordinator	1137
2	Calendar Coordinator—1/2 time	1137
11	Municipal Court Clerk Trainee, or	0884
	Municipal Court Clerk I, or	0968
	Municipal Court Clerk II	1039
2	Municipal Court Clerk Trainee—1/2 time, or	0884
	Municipal Court Clerk I—1/2 time, or	0968
	Municipal Court Clerk II—1/2 time	1039
2	Municipal Court Account Technician	1007
3	Municipal Court Account Clerk	0788
1	Accountant I, or	1227
	Accountant II	1404
28	Municipal Court Legal Process Clerk, or	0738
	Municipal Court Legal Process Clerk I, or	0884
	Municipal Court Legal Process Clerk II	0968
3	Municipal Court Legal Process Clerk III	1025
2	Municipal Court Legal Process Clerk III—1/2 time	1025
4	Supervising Municipal Court Clerk	1137
1	Administrative Services Officer I	1227
1	Court Data Manger	2020
1	Mail Clerk	0738

(b) At no time shall the number of Municipal Court Clerk II positions set forth in subdivision (a) exceed six.

(c) At no time shall the number of Municipal Court Legal Process Clerk II positions set forth in subdivision (a) exceed nine. At no time shall the number of Municipal Court Legal Process Clerks I and II positions set forth in subdivision (a) exceed 13.

SEC. 76. Section 74610 of the Government Code is amended to read:

74610. (a) The positions enumerated in Sections 74604, 74607, and 74608 are deemed to be comparable in job and salary level to certain positions in the service of San Luis Obispo County. The following table sets forth the court classifications with the comparable county classifications shown opposite thereto:

Court Classification	County Classification
Court Executive Officer	Deputy County Counsel IV (Confidential)
Assistant Court Executive Officer	Administrative Analyst III
Calendar Coordinator—1/2 time	Supervising Superior Court Clerk
Calendar Coordinator	Supervising Superior Court Clerk
Municipal Court Clerk I, II	Superior Court Clerk I, II
Municipal Court Clerk Trainee	Legal Process Clerk I
Municipal Court Accounting Technician	Accounting Technician
Municipal Court Account Clerk	Account Clerk
Accountant I, II	Accountant I, II
Municipal Court Legal Process Clerk	Legal Process Clerk Trainee
Municipal Court Legal Process Clerk I, II, III	Legal Process Clerk I, II, III
Municipal Court Legal Process Clerk III—1/2 time	Legal Process Clerk III
Supervising Municipal Court Clerk	Supervising Superior Court Clerk
Administrative Services Officer I	Administrative Services Officer I
Court Data Manager	Programmer Analyst II plus 10 percent
Mail Clerk	Mail Clerk

In the event that the salary for any classification which is shown above is increased by the board of supervisors, a commensurate increase shall be made in the salary for the comparable court classification. Salary adjustments made pursuant to this section shall be effective the same date as the effective date of action of the board of supervisors applicable to the respective and comparable county classifications, but shall remain effective only until January 1 of the second year following the year in which such an adjustment in salary is made.

(b) Upon recommendation of the judges of the court, and with the approval of the board of supervisors, the court may appoint additional employees as it deems necessary for the performance of the duties and exercise of the powers conferred by law upon the court and its members. Any appointment made pursuant to this section shall be on an interim basis and shall expire January 1st of the

second calendar year following the year in which the appointment is made unless ratified by the Legislature. This section shall not affect the application of Section 72150.

SEC. 77. Section 74642 of the Government Code is amended to read:

74642. Within the Santa Barbara Judicial District there shall be the following officers, attachés, and employees:

	Santa Barbara Municipal Court	Salary Range
2	Account Clerk II	356
1	Account Clerk III	383
1	Accounting Technician I	411
1	Administrative Assistant II—Ct.	457
1	Administrative Secretary	402
1	Assistant Clerk-Admin. Officer (SB)	514
1	Calendar Coordinator, Municipal Court	441
1	Clerk-Administrative Officer (SB)	564
2	Commissioner, Municipal Court	2,956
16	Court Clerk I	351
17	Court Clerk II	378
11	Court Clerk III	405
6	Court Clerk I—D	351
1	Court Clerk II—H	378
1	Court Clerk III—D	405
1	Court Clerk Chief	485
1	Court Clerk, Supervising	441
2	Court Interpreter	411
1	Data Entry Operator—Ct.	364
1	Department Automation Specialist Senior—Ct.	480
5	Legal Process Specialist, Supervising	441
3	Official Court Reporter-Municipal Court	504
4	Own Recognizance Officer	456
1	Own Recognizance Supervisor	476

	Marshal Santa Barbara Municipal Court	Salary Range
1	Clerk Principal	429
3	Court Clerk I	351
1	Court Clerk II	378
9	Deputy Marshal	470
1	Legal Services Specialist	404
1	Marshal (SB)	542
2	Marshal's Sergeant	505

SEC. 78. Section 74643 of the Government Code is amended to read:

74643. Within the Santa Maria Judicial District there shall be the following officers, attachés, and employees:

	Santa Maria Municipal Court	Salary Range
2	Account Clerk III	383
1	Asst. Clerk-Administrative Officer (SM)	460
1	Automation Specialist	448
1	Clerk Typist II	346
1	Clerk Typist III	373
1	Clerk-Administrative Officer (SM)	517
1	Commissioner, Municipal Court	2,956
9	Court Clerk I	351
6	Court Clerk II	378
4	Court Clerk III	405
1	Court Interpreter	411
3	Data Entry Operator	364
3	Legal Process Specialist, Supervising	441
2	Own Recognizance Officer	456
1	Own Recognizance Supervisor	476

	Marshal—Santa Maria Municipal Court	Salary Range
1	Account Clerk II	356
1	Account Clerk III	383
1	Assistant Marshal (SM)	507
1	Court Clerk I	351
6	Deputy Marshal	470
1	Deputy Marshal—S/D	480
1	Legal Services Specialist	398
1	Marshal (SM)	532
1	Marshal's Sergeant	505

SEC. 79. Section 74644 of the Government Code is amended to read:

74644. Within the Lompoc Judicial District there shall be the following officers, attachés, and employees:

	Municipal Court—Lompoc	Salary Range
1	Asst. Clerk-Admin. Officer (Lompoc)	444
1	Clerk-Administrative Officer (Lompoc)	495
1	Court Clerk I	351
4	Court Clerk II	378
2	Court Clerk III	405
2	Court Clerk II—D	378

Marshal—Lompoc Municipal Court		Salary Range
1	Administrative Services Clerk	402
1	Clerk Typist I/II—D	322/346
1	Deputy Marshal	470
1	Marshal—Lompoc	519

SEC. 80. Section 74645 of the Government Code is amended to read:

74645. (a) It is the purpose of this section to provide compensation for municipal court employees and officers which is comparable to that paid to county employees holding equal or comparable positions in the Santa Barbara classified service as such comparability is determined by the Santa Barbara County Board of Supervisors.

(b) Whenever reference to a numbered salary range is made in any section of this article, the schedule and the salary ordinance of the County of Santa Barbara in effect on January 1, 1991, shall apply.

(c) If the board of supervisors adopts a revised salary schedule for county employees, the new schedule shall apply equally to employees of municipal courts and marshals' offices and conversion to the new schedule shall be made for the employees in the same manner on the same date as for the classified service.

(d) Notwithstanding any of the provisions of this article, the salary and benefits of municipal court employees and officers shall be changed in the same manner and at the same rate as a salary and benefit change is effective for other permanent county classified positions. Employees and officers of the municipal court shall be entitled to all employee benefits as they are provided and made applicable to positions within the classified service pursuant to Santa Barbara County ordinances or resolutions, to the extent that the benefits are not contrary to state law.

(e) All matters affecting the administration of salary and benefits, the selection, appointment, and reclassification of municipal court officers and employees in those positions which they hold which are not specifically determined by the provision of state law shall be governed by the personnel ordinances and resolutions of the Board of Supervisors of the County of Santa Barbara.

(f) Nothing in this article shall be construed to place marshals' or clerks' offices, their employees and attachés under the civil service system of Santa Barbara County but those employees and attachés may be placed under that civil service system by court rule adopted by the judges of their respective courts.

(g) Any changes in compensation made pursuant to this section shall be on an interim basis and shall expire January 1 of the second calendar year following the changes unless ratified by the Legislature.

SEC. 81. Section 74663 of the Government Code is amended to read:

74663. In the Santa Clara County Judicial District there shall be one clerk-administrative officer who shall receive a salary of three thousand one hundred seventy dollars and forty-eight cents ($3,170.48) biweekly and shall, notwithstanding Section 74666, be appointed by and serve at the pleasure of a majority of the judges of the municipal court. In addition, there will be one legal aide (unclassified) and one staff attorney (unclassified) who shall serve a one-year term. The legal aide shall be appointed by and serve at the pleasure of a majority of the judges and shall receive a salary as specified in range 43.4B and the staff attorney shall receive a salary as specified in range 27.5I. The Santa Clara County Salary Ordinances No. NS.20.90 and NS.5.90, as amended, for the fiscal year July 1, 1990, through June 30, 1991, are the sources for all salaries.

The clerk-administrative officer may appoint all of the following:

(1) One assistant clerk-administrative officer who shall receive a salary of two thousand five hundred six dollars and eighty-eight cents ($2,506.88) biweekly.

(2) One administrative assistant to the clerk-administrative officer who shall receive a salary as specified in range 37.5A.

(3) One administrative assistant to the presiding judge who shall receive a salary as specified in range 37.5A.

(4) One administrative services manager II who shall receive a salary as specified in range 38.8A.

(5) One senior management analyst who shall receive a salary as specified in range 36.7A, or management analyst who shall receive a salary as specified in range 34.3A, or associate management analyst B who shall receive a salary as specified in range 30.7A, or associate management analyst A who shall receive a salary as specified in range 27.0A, or management aide who shall receive a salary as specified in range 25.4A.

(6) Two management analyst who shall receive a salary as specified in range 34.3A, or associate management analyst B who shall receive a salary as specified in range 30.7A, or associate management analyst A who shall receive a salary as specified in range 27.0A.

(7) One associate management analyst B who shall receive a salary as specified in range 30.7A, or associate management analyst A who shall receive a salary as specified in range 27.0A, or management aide who shall receive a salary as specified in range 25.4A.

(8) One department information systems coordinator who shall receive a salary as specified in range 36.7A.

(9) One departmental systems specialist II who shall receive a salary as specified in range 38.7A, or one departmental systems specialist I who shall receive a salary as specified in range 36.7.

(10) Two accountants III who shall receive a salary as specified in range 34.2A, or accountants II who shall receive a salary as specified

in range 46.6B, or accountant/auditor appraiser who shall receive a salary as specified in range 43.2B.

(11) One accountant II who shall receive a salary as specified in range 46.6B, or accountant/auditor appraiser who shall receive a salary as specified in range 43.2B.

(12) One office management coordinator who shall receive a salary as specified in range 28.6A.

(13) Two secretaries III who shall receive a salary as specified in range 43.4B, or secretaries II who shall receive a salary as specified in range 41.4B, or secretaries I who shall receive a salary as specified in range 38.7B.

(14) Two secretaries II who shall receive a salary as specified in range 41.4B, or secretaries I who shall receive a salary as specified in range 38.7B.

(15) Two advanced clerk typists who shall receive a salary as specified in range 37.7B.

(16) One clerk typist who shall receive a salary as specified in range 36.5B.

(17) One account clerk II who shall receive a salary as specified in range 38.4B.

(18) One municipal court division manager III who shall receive a salary of two thousand one hundred eighty-seven dollars and four cents ($2,187.04) biweekly.

(19) Three municipal court division managers II who shall receive a salary of two thousand thirteen dollars and ninety-two cents ($2,013.92) biweekly.

(20) Three municipal court division managers I who shall receive a salary of one thousand eight hundred eighty-nine dollars and twenty cents ($1,889.20) biweekly.

(21) One chief deputy court clerk II who shall receive a salary as specified in range 34.3A.

(22) Six chief deputy court clerks I who shall receive a salary as specified in range 33.3A.

(23) Twelve supervising deputy court clerks II who shall receive a salary as specified in range 31.3A.

(24) Six supervising deputy court clerks I who shall receive a salary as specified in range 28.5A.

(25) Twelve assistant supervising deputy court clerks who shall receive a salary as specified in range 26.1A.

(26) Sixty-five municipal courtroom clerks who shall receive a salary as specified in range 44.4B.

(27) Two hundred twenty deputy court clerks II who shall receive a salary as specified in range 38.4B, or deputy court clerks I who shall receive a salary as specified in range 35.9B.

(28) One coordinating court interpreter who shall receive a salary as specified in range 27.8A.

(29) Seven accountant assistants who shall receive a salary as specified in range 40.2B.

(30) Two security guards who shall receive a salary as specified in

range 38.1B.

(31) One stock clerk who shall receive a salary as specified in range 36.5B.

(32) One messenger-driver who shall receive a salary as specified in range 35.5B.

SEC. 82. Section 74665 of the Government Code is amended to read:

74665. In the Santa Clara County Judicial District the judges of these courts, pursuant to Section 72194, may appoint as many additional reporters as the business of the courts may require, who shall be known as official reporters pro tempore, and who shall serve without salary but shall receive the fees provided by Sections 69947 to 69953, inclusive, except that in lieu of the per diem fees provided in those sections for reporting testimony and proceedings, the official reporters pro tempore shall in all cases receive ninety-eight dollars and fourteen cents ($98.14) per half day and one hundred ninety-six dollars and twenty-eight cents ($196.28) per day, which shall, upon order of the court, be a charge against the general fund of the county. If the board of supervisors increases the per diem fees for official court reporters pro tempore in the superior court pursuant to Section 70046.1, this increase shall apply equally for all official reporters pro tempore in the municipal courts, but all of these increases shall be effective only until the second year following the calendar year in which the adjustment is made.

SEC. 83. Section 74701.5 of the Government Code is amended to read:

74701.5. The judges of the Sonoma County Municipal Court may, by majority vote, appoint two court commissioners who shall meet the qualifications and have the powers and duties specified in Sections 72190 and 72190.1 of this code, and Section 259 of the Code of Civil Procedure. Any commissioner so appointed shall also have the power and duties of a traffic referee, as provided in Article 9 (commencing with Section 72400) of Chapter 8 of Title 8. The salary of the commissioner for all duties performed pursuant to this section shall be equal to 85 percent of the annual salary of a judge of a municipal court. The commissioner shall be a member of the Sonoma County Retirement System and shall receive vacation, sick leave, and fringe benefits identical to those provided Sonoma County administrative management employees.

SEC. 84. Section 74703 of the Government Code is amended to read:

74703. (a) The judges of the Sonoma County Municipal Court may, with the approval of the board of supervisors, appoint a permanent part-time traffic referee, in addition to the appointment of any other traffic referee authorized by statute, to be funded entirely by the County of Sonoma. The permanent part-time traffic referee shall hold office at the pleasure of the judges. The judges may also appoint temporary traffic referees, as needed, to assist in processing traffic caseloads during times of training, illness, or

vacation of the part-time traffic referee.

(b) The permanent part-time traffic referee and temporary traffic referees shall have the powers and duties specified in Sections 74201 and 74202, as well as the powers of a deputy clerk of the court, and shall perform such other duties as may be assigned by the court.

(c) The permanent part-time traffic referee shall receive a salary equal to 60 percent of the annual salary of a municipal court judge. The permanent part-time traffic referee shall receive sick leave, vacation, and benefits identical to those provided to Sonoma County administrative management employees.

(d) The temporary traffic referees shall receive a salary identical to that of the permanent part-time traffic referee, except that such compensation shall be prorated as the number of hours actually served relates to a 40-hour workweek. Temporary traffic referees shall not receive sick leave, vacation, or benefits, other than those mandated by state or federal law.

(e) The permanent part-time traffic referee shall be appointed from a list of temporary traffic referees established and approved by a majority of the judges of that court. The number of temporary traffic referees shall be such that each temporary traffic referee serves on the bench an average of at least three days in each month, and the presiding judge shall assure that all temporary traffic referees maintain current knowledge of the procedures. The court shall periodically review the performance of each temporary traffic referee and shall maintain an ongoing training program to maintain their skills. Each temporary traffic referee shall possess the same qualifications the law requires of a municipal court judge, and shall have completed an orientation program satisfactory to the presiding judge, including a review of the procedures and practices of the court, together with observation of each particular calendar to which the traffic referee may be assigned, and shall not engage in the private practice of law before any court of the municipal to which he or she is appointed, and is subject to disqualification as provided for judges.

(f) A permanent part-time traffic referee and each temporary traffic referee shall perform those functions conferred by law and assigned by the presiding judge. Before any action or proceeding is tried or heard by a permanent part-time traffic referee or temporary traffic referee, any party to, or any attorney appearing in, the action or proceeding shall, however, be entitled to require, by oral or written motion without notice, that the action or proceeding be reassigned or transferred, whereupon the action or proceeding shall be reassigned or transferred as promptly as possible to a judge, court commissioner, or referee of the court. The court shall, prior to the commencement of any such trial or hearing, provide notice to each party or attorney of record in the action or proceeding of this entitlement to require reassignment or transfer.

(g) The permanent part-time traffic referee position and the temporary traffic referee positions shall not be counted in the

calculation of trial court funding pursuant to Section 77202, and the salary for these positions shall not be considered as part of "court operations" for purposes of Sections 77003 and 77204.

SEC. 85. Section 74705 of the Government Code is amended to read:

74705. Certain classes of employment in the municipal courts are deemed to be equivalent in job responsibility and salary level to certain classes in the service of the County of Sonoma, or in some instances, to such classes plus or minus a specified percentage rate. Whenever the salary of those classes in the service of the County of Sonoma is adjusted by the board of supervisors, the salary of the comparable classes in the municipal courts shall be adjusted to a like extent plus or minus the percentage rate specified in this section, if applicable. Such adjustment shall become effective on the same date as the effective date of the action by the board of supervisors, as it applies to the classes in the service of the county, but such adjustment shall remain effective only until January 1 of the second year following the calendar year in which such adjustment is made.

Municipal court classification	County classification
Municipal court executive officer	Clerk administrator
Assistant court executive officer	Assistant clerk administrator
Administrative assistant	Administrative assistant
Municipal court services supervisor	Municipal court services supervisor
Municipal court reporter	Municipal court reporter
Municipal court secretary	Municipal court secretary
Executive secretary	Executive secretary
Municipal court division supervisor	Municipal court division supervisor
Municipal courtroom clerk	Municipal courtroom clerk
Municipal court clerk III	Municipal court clerk III
Account clerk III	Account clerk III
Account clerk II/I	Account clerk II/I
Municipal court clerk II	Municipal court clerk II
Municipal court clerk I	Municipal court clerk I
Data entry operator II/I	Data entry operator II/I
Clerk typist II/I	Clerk typist II/I

SEC. 86. Section 74708 of the Government Code is amended to read:

74708. In the municipal court in the district which coincides with all the territory in the County of Sonoma, there shall be the following personnel:

(a) There shall be six judges who may together appoint:

(1) Two court commissioners.
(2) One municipal court executive officer, who will serve as clerk of the court.
(3) Five municipal court reporters.
(4) Two municipal court secretaries.
(b) The municipal court executive officer may appoint:
(1) One assistant municipal court executive officer.
(2) Two administrative assistants.
(3) One municipal court services supervisor.
(4) One executive secretary.
(5) Eight municipal court division supervisors.
(6) Nine municipal courtroom clerks.
(7) Eighteen municipal court clerks III.
(8) One account clerk III.
(9) Five account clerks II/I.
(10) Two data entry operators II/I.
(11) Twenty-seven and one-half municipal court clerks II/I.
(12) Three clerk typists II/I.

SEC. 87. Section 74783 of the Government Code is amended to read:

74783. There shall be one clerk-administrator who shall be appointed by and serve at the pleasure of a majority of the judges of the court. The clerk-administrator and all other court employees shall receive the salary specified in the salary resolution for Stanislaus County which is in effect. The clerk may appoint, with the approval of the judges of the court, all of the following:
(a) One assistant clerk-administrator.
(b) Ten courtroom clerks.
(c) Four supervising legal clerk II.
(d) One accountant I.
(e) Eight legal clerks III.
(f) One account clerk III.
(g) One supervising judicial secretary .
(h) Forty-one legal clerks I/II.
(i) One supervising courtroom clerk.
(j) Four supervising legal clerks I.
(k) One staff services coordinator.
(*l*) Four interpreters.
(m) One master calendar clerk.

SEC. 88. Section 74784 of the Government Code is amended to read:

74784. There shall be one marshal who shall be appointed by and serve at the pleasure of a majority of the judges of the court. The Marshal and all other marshal employees shall receive the salary specified in the salary resolution for Stanislaus County which is in effect. The marshal may appoint, with the approval of the judges of the court all of the following:
(a) Two marshal-captains.
(b) Nineteen deputy marshals.

(c) One supervising civil process technician.
(d) One civil process technician.
(e) Three civil process clerks.
(f) Three marshal technicians.
(g) The number of deputy marshal-keepers as may be required by law.

SEC. 89. Section 74803 of the Government Code is amended to read:

74803. The clerk may appoint:
(a) One municipal court coordinator.
(b) One courtroom calendar coordinator.
(c) Thirteen municipal courtroom clerks.
(d) Four deputy clerks III.
(e) Two judicial secretaries.
(f) Nine deputy clerks II.
(g) Thirty-eight deputy clerks I.
(h) Two directors of court operations.
(i) One secretary.
(j) One accounting technician II.
(k) Two court reporters.
(*l*) One system and procedures Analyst II.

SEC. 90. Section 74804 of the Government Code is amended to read:

74804. There shall be one marshal who shall receive the biweekly salary specified in range 63.25 as set forth in the biweekly salary schedule contained in Section 74806.

Whenever the salary of a related class, or classes, of San Joaquin County employees is adjusted, the salary of the marshal may be adjusted by a percentage not to exceed the percentage of the adjustment applicable to such related class or classes. Any adjustment shall be effective only until January 1 of the second year following the year in which the adjustment is made, unless ratified by the Legislature.

SEC. 91. Section 74805 of the Government Code is amended to read:

74805. The marshal may appoint:
(a) One senior deputy marshal.
(b) Seventeen deputy marshals.
(c) Twenty deputies who shall be custodians at a fee allowed by law for the keeping of property.
(d) One specialist clerk.

SEC. 92. Section 74807 of the Government Code is amended to read:

74807. Persons employed in any of the positions authorized by this article shall be paid the salary assigned to the following ranges as set forth in the biweekly salary schedule contained in Section 74806, except that if the range shown opposite the title of the position includes a fraction then the person employed in such position shall be paid a salary equal to that shown opposite said fractional range in

the salary ordinance of the County of San Joaquin.

Position	Range
(a) Deputy clerk I	47.75
(b) Deputy clerk II	49.75
(c) Deputy clerk III	51.25
(d) Judicial secretary	52.00
(e) Municipal courtroom clerk	54.25
(f) Municipal court coordinator	54.50
(g) Clerk/Administrator	67.25
(h) Deputy marshal	58.00
(i) Senior deputy marshal	60.25
(j) Courtroom calendar coordinator	54.50
(k) Court project director	65.25
(*l*) Director of court operations	55.50
(m) Secretary	54.00
(n) Accounting technician II	53.50
(o) Specialist clerk	48.75
(p) Court reporter	62.00
(q) Systems and procedures analyst II	61.50

Subject to the provisions of the salary ordinance of the County of San Joaquin, each person employed in the clerk's office or the marshal's office may receive an annual increase in salary of one step on his or her assigned range until the employee reaches the maximum step on the range assigned for his or her position. Thereafter no additional step increase shall be granted.

SEC. 93. Section 74808 of the Government Code is amended to read:

74808. Whenever the salary of a related class, or classes, of San Joaquin County employees is adjusted, the salary of the following classes may be adjusted by a percentage not to exceed the percentage of adjustment granted to the class, or classes, deemed by the board of supervisors to be related:

(a) Deputy clerk I.
(b) Deputy clerk II.
(c) Deputy clerk III.
(d) Judicial secretary.
(e) Municipal Courtroom Clerks.
(f) Clerk/Administrator.
(g) Courtroom calendar coordinator.
(h) Municipal court coordinator.
(i) Deputy marshal.
(j) Senior deputy marshal.
(k) Director of court operations.
(*l*) Court project director.
(m) Secretary.
(n) Accounting technician II.
(o) Specialist clerk.

(p) Court reporter.

(q) Systems and procedures analyst II.

All adjustments to the salaries of the above-named classes shall be effective as of the same date as the adjustment for the class, or classes, deemed to be related, and shall be effective only until January 1 of the second year following the year in which the adjustment is made, unless ratified by the Legislature.

SEC. 94. Section 74921.9 of the Government Code is amended to read:

74921.9. There shall be one marshal for each division of the district, who shall receive a biweekly salary set at range 206.

Upon the effective date of this chapter, the marshal of the Porterville Municipal Court District shall continue in office as the marshal of the Porterville Division, the marshal of the Visalia Municipal Court District shall continue in office as the marshal of the Visalia Division, and the marshal of the Tulare-Pixley Municipal Court District shall continue in office as the marshal of the Tulare-Pixley Division, until the expiration of their respective terms. Their successors shall be elected by the electors of the divisions. The judges of the respective divisions shall appoint marshals for the Dinuba Division and the Central Division; or if such an appointment is not made within 30 days after the judge assumes office, the board of supervisors may provide for the election of a marshal by the electors of the division. Each marshal shall be the appointing power for those positions listed in Section 74921.10 as being appointed by a marshal.

SEC. 95. Section 74921.10 of the Government Code is amended to read:

74921.10. The number of positions within each job classification which may be filled by appointment by the municipal court administrator and each marshal are, as follows:

(1) Appointed by the municipal court administrator:

Number	Title	Range
3	Deputy Clerk/Administrator II	186
5	Deputy Clerk/Administrator I	169
11	Court Clerk III	153
2	Collections Worker II	140
15	Court Clerk II	143
11	Court Clerk I	131
3	Account Clerk	126
24	Office Assistant II	120
.5	Office Assistant II	120

(2) Appointed by each marshal:

Number	Title	Range
(A) Porterville Division		
3	Deputy Marshals	175
1	Legal Office Assistant II	130
(B) Central Division		
1	Deputy Marshal	175
1	Legal Office Assistant II	130
(C) Visalia Division		
5	Deputy Marshals	175
1	Legal Office Assistant II	130
1	Office Assistant II	120
(D) Tulare-Pixley Division		
3	Deputy Marshals	175
1	Legal Office Assistant II	130
(E) Dinuba Division		
1	Deputy Marshal	175
1	Legal Office Assistant II	130

(3) Each marshal may also appoint as many deputy marshal keepers as may be required by law. The deputy marshal keepers shall be compensated at the fee allowed by law for keeping property.

SEC. 96. Section 74921.11 of the Government Code is amended to read:

74921.11. Whenever reference is made to a numbered salary range in any section of this article, the salary schedule found in the salary resolution of Tulare County in effect on January 1, 1991, shall apply. The salaries of municipal court officers and attachés may be adjusted upon approval of the board of supervisors. Any such adjustments shall only be effective to January 1 of the second year following the year in which such adjustments are made, unless ratified by the Legislature.

SEC. 97. Section 74937 of the Government Code is amended to read:

74937. (a) The presiding judge of the North Butte County Municipal Court may appoint the following positions:

(1) One clerk/administrator.

(2) One assistant clerk/administrator or one supervising court clerk.

(3) Three supervising court clerks.

(4) Nine court clerks II/III, or office assistants III.

(5) Four court clerks I/II, or office assistants I/II.

(6) One senior account clerk or account clerk.

(7) One and one-half court reporters.

(b) The presiding judge of the South Butte County Municipal

Court may appoint the following positions:

(1) One clerk/administrator.

(2) One assistant clerk/administrator or one supervising court clerk.

(3) Two supervising court clerks, or court clerks II/III, or office assistants III.

(4) Three court clerks II/III, or office assistants III.

(5) Six court clerks I/II, or office assistants I/II.

(6) One senior account clerk, or account clerk.

(7) One and one-half court reporters.

SEC. 98. Section 74940 of the Government Code is amended to read:

74940. Whenever reference is made to a range number in this section of this article, the schedule of biweekly salaries shall be that as set forth in the Butte County Salary Ordinance.

(a) Clerk/administrator—range 211.

(b) Assistant clerk/administrator—range 160.

(c) Supervising court clerk—range 140.

(d) Court clerk I—range 80.

(e) Court clerk II—range 100.

(f) Court clerk III—range 120.

(g) Office assistant III—range 69.

(h) Office assistant II—range 49.

(i) Office assistant I—range 29.

(j) Senior account clerk—range 74.

(k) Account clerk—range 54.

(*l*) Court reporter—range 202.

SEC. 99. Section 77003 of the Government Code is amended to read:

77003. As used in this chapter, "court operations" means the county share of superior and municipal court judges' salaries, benefits, and public agency retirement contributions, and the salary, benefits, and public agency retirement contributions for justice court judges, subordinate judicial officers, other court staff including all municipal court staff positions specifically prescribed by statute, those deputy marshals, constables, and sheriffs as the court deems necessary for court operations, court-appointed counsel in juvenile court dependency proceedings, counsel appointed by the court to represent a minor pursuant to Section 4606 of the Civil Code, services and supplies relating to court operations, collective bargaining under the Meyers-Milias-Brown Act with respect to court employees specified in Section 3501.5, and actual indirect costs, not to exceed 18 percent of the block grant, for county general services attributable to court operations, but specifically excluding, but not limited to, law library operations conducted by a trust pursuant to statute; courthouse construction; district attorney services; probation services; indigent criminal defense; grand jury expenses and operations; and pretrial release services. However, in a county with a population of 350,000 or less as determined by the Department of

Finance, to the extent that the block grant for a given fiscal year exceeds the 1987–88 funding level for the trial courts in that county, as adjusted by the current consumer price index, "court operations" includes probation services, indigent criminal defense, and pretrial release services. The salaries, benefits, and public agency retirement contributions to be used in computing "court operations" are those salaries, benefits, and public agency retirement contributions in existence on June 30, 1991, and any reclassification made thereafter primarily for purposes of granting a salary increase shall not be applicable for purposes of this section.

SEC. 100. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because this act is in accordance with the request of a local agency or school district which desired legislative authority to carry out the programs specified in this act. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 717

An act to repeal Section 66796.22 of the Government Code, to amend Sections 40410, 40412, 40430, 40507, 42520, 42563, 42823, 42824, 42846, 43501, 43503, 44106, 44800, 45002, 45006, 45401, 45405, and 46401 of, to add Section 44800.5 to, to repeal and add Article 2 (commencing with Section 42510) of Chapter 9 of, Chapter 12 (commencing with Section 42600) of, and Article 2 (commencing with Section 42810) of Chapter 16 of, Part 3 of Division 30 of, to repeal Article 4 (commencing with Section 40600) of Chapter 3 of Part 1 of Division 30 of, and to repeal Chapter 1 (commencing with Section 42000), Chapter 2 (commencing with Section 42100), Article 4 (commencing with Section 42530) of Chapter 9, Chapter 11 (commencing with Section 42580), and Chapter 20 (commencing with Section 42950) of, Part 3 of Division 30 of, and to repeal Sections 40434, 41824, 41825, 44011, 45601, 48009, and 48010 of, the Public Resources Code, and to amend Section 45982 of the Revenue and Taxation Code, relating to solid waste.

[Approved by Governor October 7, 1991 Filed with Secretary of State October 9, 1991.]

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

SECTION 1. Section 66796.22 of the Government Code is repealed.

SEC. 2. Section 40410 of the Public Resources Code is amended to read:

40410. (a) Each member of the board shall have one vote.

Except as provided in Section 40500, the affirmative vote of at least four members shall be required for the transaction of any business of the board.

(b) A vacancy in the board shall not impair the right of the remaining members to exercise all the powers of the board, and four members of the board shall at all times constitute a quorum.

SEC. 3. Section 40412 of the Public Resources Code is amended to read:

40412. (a) For the purposes of this section, "ex parte communication" means any oral or written communication concerning matters, other than purely procedural matters, under the board's jurisdiction which are subject to a rollcall vote pursuant to Section 40510.

(b) No board member or any person, excepting a staff member of the board acting in his or her official capacity, who intends to influence the decision of a board member on a matter before the board, shall conduct an ex parte communication, except as follows:

(1) If an ex parte communication occurs, the board member shall notify the interested party that a full disclosure of the ex parte communication shall be entered in the board's record.

(2) Communications cease to be ex parte communications when either of the following occurs:

(A) The board member or the person who engaged in the communication with the board member fully discloses the communication and requests in writing that it be placed in the board's official record of the proceeding.

(B) When two or more board members receive substantially the same written communication, or are party to the same oral communication, from the same party on the same matter, and a single board member fully discloses the communication on behalf of the other board member or members who received the communication and requests in writing that it be placed in the board's official record of the proceeding.

SEC. 4. Section 40430 of the Public Resources Code is amended to read:

40430. The board shall appoint an executive officer who may be exempt from civil service laws who shall administer the functions of the board. The board shall prescribe the duties and fix the salary of the chief executive officer.

SEC. 5. Section 40434 of the Public Resources Code is repealed.

SEC. 6. Section 40507 of the Public Resources Code is amended to read:

40507. The board shall file an annual report with the Legislature on or before March 31, 1992, and on or before March 31 of each year thereafter. The report shall summarize progress achieved by the board in implementing, or assisting in the implementation of, programs established pursuant to this division and shall include all of the following:

(a) A review of the board's administrative policies and

management structure to determine whether or not administrative, budgetary, or statutory changes are needed to ensure the most effective and efficient implementation of this division.

(b) A description of actions taken and progress made by the board to implement this division and to further the goals and objectives of this division as set forth in Article 1 (commencing with Section 40000) and Article 2 (commencing with Section 40050) of Chapter 1.

(c) A review of all statutory deadlines established for the board under this division and a status report on board actions taken to comply with these deadlines.

(d) A review of market development strategies undertaken by the board pursuant to this division to ensure that markets exist for materials diverted from solid waste facilities, and recommendations for administrative and legislative actions which will promote expansion of those markets. For the report due to be submitted to the Legislature on or before March 31, 1993, recommendations developed pursuant to this subdivision shall include, but not be limited to, all of the following:

(1) Recommendations for actions to develop more direct liaisons with private manufacturing industries in the state to promote increased utilization of recycled feedstock in manufacturing processes.

(2) Recommendations for actions which can be taken to assist local governments in the inclusion of recycling activities in county overall economic development plans.

(3) Recommendations for actions to utilize available financial resources for expansion of recycling industry capacity.

(4) Recommendations to improve state, local, and private industry product and material procurement practices.

(e) A review of actions taken by the board to better educate and inform individuals and public and private sector entities who generate solid waste on the importance of source reduction, recycling, and composting of solid waste, and recommendations for administrative or legislative actions which will better inform and educate these parties.

(f) (1) For the report due to be submitted to the Legislature on or before March 31, 1993, a review of actions which have been taken, or will be taken, by the board to promote source reduction as defined in Section 40196, and recommendations for legislation which will promote source reduction on a statewide basis. Recommendations for source reduction developed pursuant to this subdivision shall include, but not be limited to, all of the following:

(A) Recommendations for actions to improve packaging and product design to reduce use of excess packaging or materials.

(B) Recommendations for the development and implementation of product durability standards.

(C) Recommendations for increasing recycled feedstock use.

(D) Recommendations for reducing toxicity of packaging and

products.

(2) The board may enter into a contract with a consulting firm to prepare the recommendations required by this subdivision.

(g) A review of the effectiveness of those provisions of the Revenue and Taxation Code which provide tax credits and deductions to individuals and businesses to promote more effective implementation of this division and recommendations for improvements to those provisions which will further the implementation of this division.

SEC. 7. Article 4 (commencing with Section 40600) of Chapter 3 of Part 1 of Division 30 of the Public Resources Code is repealed.

SEC. 9. Section 41824 of the Public Resources Code is repealed.

SEC. 10. Section 41825 of the Public Resources Code is repealed.

SEC. 11. Chapter 1 (commencing with Section 42000) of Part 3 of Division 30 of the Public Resources Code is repealed.

SEC. 12. Chapter 2 (commencing with Section 42100) of Part 3 of Division 30 of the Public Resources Code is repealed.

SEC. 13. Article 2 (commencing with Section 42510) of Chapter 9 of Part 3 of Division 30 of the Public Resources Code is repealed.

SEC. 14. Article 2 (commencing with Section 42510) is added to Chapter 9 of Part 3 of Division 30 of the Public Resources Code, to read:

Article 2. Nonyard Wood Waste Disposal Minimization

42510. It is the intent of the Legislature that actions taken by the board and cities and counties pursuant to this article serve in the best interests of cities and counties by preserving existing disposal site capacity and providing a source of revenue from the stabilization and expansion of markets for processed wood waste materials. Any actions taken pursuant to this article shall be separate from, and not be counted toward, the diversion requirements established pursuant to paragraphs (1) and (2) of subdivision (a) of Section 41780.

42511. The board shall assist cities and counties to divert nonyard wood wastes which cannot otherwise feasibly be reduced, recycled, or composted, for processing and utilization as a fuel resource, provided that the facilities which use the nonyard wood waste as a fuel resource have obtained any necessary permits which allow the use of those materials as a fuel and to the extent the diversion is consistent with the hierarchy set forth in Section 40051.

42512. On or before March 31, 1993, and annually thereafter, as part of the report required to be submitted pursuant to Section 40507, the board, in consultation with the State Air Resources Board, shall report on nonyard wood waste diversion which takes place pursuant to this article. The report shall include a quantification of the amount of nonyard wood waste being diverted from permitted disposal facilities and shall assess the environmental and economic implications of promoting or discouraging nonyard wood waste diversion from those facilities. The report may make

recommendations for further actions to be taken to affect nonyard wood waste diversion to the extent those recommendations are consistent with the hierarchy set forth in Section 40051.

SEC. 15. Section 42520 of the Public Resources Code is amended to read:

42520. On or before July 1, 1992, the board shall establish a Plastics Recycling Information Clearinghouse. This clearinghouse shall provide information to postconsumer plastics collectors, reprocessors, and recyclers about programs collecting postconsumer plastics, availability of postconsumer plastics, and recent advances in postconsumer plastics recycling technology. On or before March 31, 1993, and annually thereafter, as part of the report required to be submitted pursuant to Section 40507, the board shall report on information and activities associated with the establishment of the Plastics Recycling Information Clearinghouse pursuant to this section.

SEC. 16. Article 4 (commencing with Section 42530) of Chapter 9 of Part 3 of Division 30 of the Public Resources Code is repealed.

SEC. 17. Section 42563 of the Public Resources Code is amended to read:

42563. On and after March 31, 1992, the board shall report on the implementation of the white office paper recovery program in the report specified in Section 40507.

SEC. 18. Chapter 11 (commencing with Section 42580) of Part 3 of Division 30 of the Public Resources Code is repealed.

SEC. 19. Chapter 12 (commencing with Section 42600) of Part 3 of Division 30 of the Public Resources Code is repealed.

SEC. 20. Chapter 12 (commencing with Section 42600) is added to Part 3 of Division 30 of the Public Resources Code, to read:

CHAPTER 12. PUBLIC INFORMATION AND EDUCATION

42600. On or before July 1, 1992, the board shall establish a statewide public information and education program to encourage participation by the general public, business, government, and industry in all phases of integrated waste management. To the maximum extent possible, the public information and education program developed pursuant to this chapter shall be coordinated so as to not duplicate the efforts of other state agency public information programs for the promotion of source reduction, recycling, and composting. The public information and education program shall encourage participation in the board's integrated waste management programs and in local and regional programs. The board's program shall, at a minimum, include strategies and specific campaign activities to do all of the following:

(a) Encourage business and industry to reduce excess packaging of consumer products, to eliminate nonrecyclable contaminants from consumer goods, and to increase product durability. The board shall also promote waste handling practices which reduce waste

generation by business and industry.

(b) Encourage consumers to reduce waste generation through selective purchasing and to encourage recycling at home and work.

(c) Encourage local government procurement of products containing recycled materials, integration of recycling into the community waste management infrastructure, and public participation in local waste management decisionmaking.

(d) Implement a "Buy Recycled" campaign to encourage business, industrial, and residential consumers to purchase products manufactured with, or packaged in, recycled materials. To promote the "Buy Recycled" program, the board shall develop a directory of California vendors providing recycled products and shall work to dispel myths regarding the inferiority of recycled products.

42601. The board shall measure public information program effectiveness through research which establishes program benchmarks and tracks results. The results of that measurement shall serve as the basis for program modification. On and after March 31, 1993, as part of the report required to be prepared pursuant to Section 40507, the board shall report on the effectiveness of the public information program required to be implemented pursuant to Section 42600 and make recommendations on administrative and legislative changes which will improve the program.

42602. The board shall employ appropriate marketing techniques to disseminate its message, including radio and television advertising. The board may conduct paid advertising campaigns or solicit joint sponsorship of advertising campaigns by private industry for the purposes of complying with this chapter.

42603. (a) On or before January 1, 1993, the board, in cooperation with the State Department of Education, shall develop, produce, and disseminate supplementary educational materials to teach the concepts of source reduction, recycling, composting, and integrated waste management in California schools.

(b) The state on or before January 1, 1994, the State Department of Education, in cooperation with the board, shall develop and implement a teacher training and implementation plan program to guide the placement of the integrated waste management program to be used to educate students, faculty, and administrators on the importance of source reduction, recycling, composting, and integrated waste management in the schools. The plan shall project the phased implementation of elementary, middle, and high school programs . The board shall use the plan and consult with the State Department of Education in developing its annual public information and education budget, and shall include sufficient funds for successful implementation. On and after March 31, 1994, the board shall, in the report required to be prepared pursuant to Section 40507, report on the effectiveness of programs required to be implemented pursuant to this section and make recommendations on administrative and legislative changes which will improve the program.

42604. On or before January 1, 1993, the State Board of Education shall include in the science framework appropriate language addressing the issue of integrated waste management in the ecology and environmental studies areas.

42605. The State Department of Education shall encourage participation in the integrated waste management education program established pursuant to this chapter in cooperation with the California Integrated Waste Management Board to satisfy the teaching requirements of the science framework adopted by the State Board of Education.

SEC. 21. Article 2 (commencing with Section 42810) of Chapter 16 of Part 3 of Division 30 of the Public Resources Code is repealed.

SEC. 22. Article 2 (commencing with Section 42810) is added to Chapter 16 of Part 3 of Division 30 of the Public Resources Code, to read:

Article 2. General Provisions

42810. Nothing in this chapter limits the authority of a local agency to regulate persons or businesses that store, stockpile, process, or dispose of waste tires.

42811. The board may delegate specific powers and authority in this chapter to enforcement agencies, as defined in Section 40130, including any of the following:

(a) Review of operation plans submitted pursuant to regulations adopted under subdivision (a) of Section 42821.

(b) Inspection of permitted facilities.

(c) Enforcement of waste tire facility permits.

42812. Division 13 (commencing with Section 21000) of the Public Resources Code does not apply to the issuance of a permit for the operation of an existing waste tire facility pursuant to this chapter, except as to any substantial change in the design or operation of the waste tire facility made between the time this chapter becomes effective and the permit is initially issued by the board and as to any subsequent substantial changes made in the design or operation of the waste tire facility.

SEC. 23. Section 42823 of the Public Resources Code is amended to read:

42823. On or after July 1, 1992, no person shall establish a new major waste tire facility or expand an existing minor waste tire facility unless the person has obtained from the board a major waste tire facility permit issued pursuant to Section 42822.

SEC. 24. Section 42824 of the Public Resources Code is amended to read:

42824. On or after September 1, 1993, it is unlawful to direct or transport waste tires to a major waste tire facility or to accept waste tires at a major waste tire facility unless the operator has obtained a major waste tire facility permit.

SEC. 25. Section 42846 of the Public Resources Code is amended

to read:

42846. (a) The board may expend available moneys to perform any cleanup, abatement, or remedial work required under the circumstances set forth in Section 42845 which in its judgment is required by the magnitude of endeavor or the need for prompt action to prevent substantial pollution, nuisance, or injury to the public health or safety. The action may be taken in default of, or in addition to, remedial work by the violator or other persons, and regardless of whether injunctive relief is being sought.

(b) The board may perform the work itself, or by or in cooperation with any other governmental agency, and may use rented tools or equipment, either with operators furnished or unoperated. Notwithstanding any other provisions of law, the board may enter into oral contracts for that work, and the contracts, whether written or oral, may include provisions for equipment rental and in addition the furnishing of labor and materials necessary to accomplish the work. The contracts are exempt from approval by the Department of General Services pursuant to Section 10295 of the Public Contract Code.

SEC. 26. Chapter 20 (commencing with Section 42950) of Part 3 of Division 30 of the Public Resources Code is repealed.

SEC. 27. Section 43501 of the Public Resources Code is amended to read:

43501. Any person owning or operating a solid waste landfill, as defined in Section 46027, shall do both of the following:

(a) On or before January 1, 1989, or upon application to become an operator of a solid waste facility pursuant to Section 44001, certify to the board and the enforcement agency that all of the following have been accomplished:

(1) The owner or operator has prepared an initial estimate of closure and postclosure maintenance costs.

(2) The owner or operator has established a trust fund or equivalent financial arrangement acceptable to the board, as specified in Article 4 (commencing with Section 43600).

(3) The amounts that the owner or operator will deposit annually in the trust fund or equivalent financial arrangement acceptable to the board will ensure adequate resources for closure and postclosure maintenance.

(b) Submit to the regional water board, the local enforcement agency, and the board a plan for the closure of the landfill and a plan for the postclosure maintenance of the landfill.

SEC. 28. Section 43503 of the Public Resources Code is amended to read:

43503. The closure plan and the postclosure maintenance plan shall be submitted not later than the first date after July 1, 1990, that the solid waste facilities permit is required to be reviewed, pursuant to Section 44015. The closure and postclosure maintenance plans shall be included in that review. If the owner or operator intends to close the solid waste landfill on or before September 28, 1992, or if

the solid waste landfill does not have sufficient permitted capacity to operate after September 28, 1992, the owner or operator shall submit the plans on or before July 1, 1990, or upon application to become an operator of a solid waste facility pursuant to Section 44001.

SEC. 29. Section 44011 of the Public Resources Code is repealed.

SEC. 30. Section 44106 of the Public Resources Code is amended to read:

44106. (a) The enforcement agency shall develop a compliance schedule for a solid waste facility included in the inventory prepared pursuant to Section 44104. The compliance schedule shall ensure that diligent progress will be made to bring the solid waste facility into compliance with state minimum standards within one year of the date on which actual notice is received that the solid waste facility was included in the inventory.

(b) If the solid waste facility is not in compliance within that period, the enforcement agency shall revoke the operating permit of the solid waste facility until the violations of state minimum standards are remedied. If a closed or abandoned disposal site is not in compliance within the one-year period, the unremedied condition is prima facie evidence of negligence; and, in any action for damages against the owner of the property for injury caused by the unremedied condition, the burden of proving that the injury was not caused by the unremedied condition shall be on the owner of the property.

(c) The enforcement agency may recover any costs incurred pursuant to this section by charging the fee authorized by Section 41900.

SEC. 31. Section 44800 of the Public Resources Code is amended to read:

44800. All hearings required to be conducted under this chapter or Chapter 1 (commencing with Section 45000) of Part 5 by a local governing body shall be conducted by a hearing panel of three persons appointed by the chairperson of the local governing body of the enforcement agency under either of the following alternatives:

(a) The local governing body may appoint itself as the hearing panel.

(b) The local governing body may appoint an independent hearing panel.

SEC. 32. Section 44800.5 is added to the Public Resources Code, to read:

44800.5. All hearings required to be conducted under Chapter 1 (commencing with Section 45000) of Part 5 by the board shall be conducted by a hearing panel of three persons appointed by the chairperson of the board.

SEC. 33. Section 45002 of the Public Resources Code is amended to read:

45002. If the circumstances set forth in Section 45000 do not pose an imminent threat to life or health, but the executive officer of the board determines that it is necessary for the public health to perform

cleanup and abatement work or remedial work, the executive officer shall request the authorization to perform the work from the board.

SEC. 34. Section 45006 of the Public Resources Code is amended to read:

45006. Notwithstanding any other provisions of law, the board may enter into oral or written contracts for cleanup and abatement work or remedial work pursuant to Section 45001 or 45004, and the contracts, whether written or oral, may include provisions for equipment rental or the furnishing of labor and materials necessary to accomplish the work. Those contracts by the board are exempt from approval by the Department of General Services pursuant to Section 10295 of the Public Contract Code.

SEC. 35. Section 45401 of the Public Resources Code is amended to read:

45401. (a) Upon the request of the enforcement agency, or upon its own initiative, the board may, after notification of the enforcement agency, require the owner or operator of a solid waste landfill to do either or both of the following:

(1) Take corrective action as necessary to abate a nuisance or protect human health and the environment.

(2) Prepare and implement a closure plan and postclosure maintenance plan.

(b) The board may expend funds available to it from the Solid Waste Disposal Site Cleanup and Maintenance Account in the Integrated Waste Management Fund in preparing and issuing an order under this article.

SEC. 36. Section 45405 of the Public Resources Code is amended to read:

45405. Any contract entered into by the board, pursuant to this article, is exempt from approval by the Department of General Services pursuant to Section 10295 of the Public Contract Code.

SEC. 37. Section 45601 of the Public Resources Code is repealed.

SEC. 38. Section 46401 of the Public Resources Code is amended to read:

46401. If a city, county, or local agency with responsibility for waste management has already funded the type of program described in Section 46400 locally, the board shall award a minimum grant of funds from the account to reimburse that city, county, or local agency for the actual cost of the local program in that fiscal year or an amount from the account which is based upon the proportion that the population of a city, county, or local agency bears to the statewide population, whichever is less. This subdivision does not limit the authority of the board to award grants of funds from the account in excess of, or in addition to, the minimum grant amounts set forth in this subdivision, in accordance with the grant criteria adopted pursuant to Section 46205.

SEC. 39. Section 48009 of the Public Resources Code is repealed.

SEC. 40. Section 48010 of the Public Resources Code is repealed.

SEC. 41. Section 45982 of the Revenue and Taxation Code is

amended to read:

45982. Neither the California Integrated Waste Management Board, nor any person having an administrative duty under Part 9 (commencing with Section 15600) of Division 3 of Title 2 of the Government Code shall disclose the business affairs, operations, or any other proprietary information pertaining to a fee payer, except a fee payer which is a public agency, which was submitted to the board in a report or return required by this part, or permit any report or copy thereof or any book containing any abstract or particulars thereof to be seen or examined by any person not expressly authorized by Section 45981 or this section. However, the Governor may, by general or special order, authorize examination of the records maintained by the board under this part by other state officers, by officers of another state, by the federal government if a reciprocal arrangement exists, or by any other person. The information so obtained pursuant to the order of the Governor shall not be made public except to the extent and in the manner that the order may authorize that it be made public.

CHAPTER 718

An act to amend Section 41781 of, and to add Section 41781.1 to, the Public Resources Code, relating to solid waste, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 7, 1991. Filed with Secretary of State October 9, 1991.]

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

SECTION 1. Section 41781 of the Public Resources Code, as amended by Section 19 of Chapter 1355 of the Statutes of 1990, is amended to read:

41781. (a) For the purpose of determining the base amount of solid waste from which source reduction, recycling, and composting levels shall be calculated, "solid waste" includes only the following:

(1) Materials in the waste stream generated within a local agency's jurisdiction, the types and quantities of which were disposed of at a permitted disposal facility as of January 1, 1990. Nothing in this section requires local agencies to perform waste characterization in addition to the waste characterization requirements established under Sections 41030, 41031, 41331, and 41332.

(2) The amount of solid waste diverted from a landfill or transformation facility through source reduction, recycling, or composting.

(b) For the purposes of this section, "solid waste" does not include

any of the following:

(1) Agricultural wastes, except agricultural wastes which were disposed of at a permitted disposal facility as of January 1, 1990, which are diverted, and which are recycled, composted, or reused.

(2) Inert solids, including inert solids used for structural fill, except inert solids which were disposed of at a permitted disposal facility as of January 1, 1990, which are diverted, and which are recycled or reused for paving materials or other construction-related materials.

(3) Scrap metals, except scrap metals which were disposed of at a permitted disposal facility as of January 1, 1990, which are diverted, and which are recycled or reused.

(4) Discarded, white-coated major appliances, except those discarded, white-coated major appliances which were disposed of at a permitted disposal facility as of January 1, 1990, which are diverted, and which are recycled, or refurbished and reused.

(5) Sludge.

(6) Another waste product which would not normally be disposed of at a landfill or transformation facility.

(c) For the purposes of this chapter, the amount of solid waste from which the required reductions are measured shall be the amount of solid waste existing on January 1, 1990, with future adjustments for increases or decreases in the quantity of waste caused only by changes in population and changes in the number or size of governmental, industrial, or commercial operations in the jurisdiction.

(d) For the purpose of determining recycling levels required pursuant to this article, counties and cities shall include all existing residential, commercial, and industrial source reduction, recycling, and composting activities that divert solid waste from solid waste landfills and transformation facilities.

(e) On or before March 1, 1991, the board, in consultation and with the cooperation of the state water board and the State Department of Health Services, shall prepare and submit to the Legislature and the Governor a report on whether or not to include sludge in the waste diversion requirements established under Section 41780. The report shall include, but is not limited to, all of the following:

(1) A description and evaluation of the various options for disposal and reuse of sludge, including, but not limited to, composting, cocomposting, land application, incineration, ocean disposal, and landfill disposal.

(2) An evaluation of the environmental impacts of the various disposal and reuse options, including, but not limited to, impacts on surface, marine, and ground water quality and impacts on air quality.

(3) An evaluation of the public health impacts of the various disposal and reuse options, including impacts from ingestion of, and skin contact with, sludge.

(4) An evaluation of the adequacy of existing federal and state

statutes and regulatory programs designed to regulate sludge disposal and reuse, including, but not limited to, adequacy of current funding levels for regulatory programs.

(5) Recommendations on the best available methods to dispose or reuse sludge to ensure the maximum protection of public health and the environment.

(f) This section shall remain in effect until July 1, 1992, and as of that date is repealed.

SEC. 2. Section 41781 of the Public Resources Code, as amended by Section 20 of Chapter 1355 of the Statutes of 1990, is amended to read:

41781. (a) For the purpose of determining the base rate of solid waste from which source reduction, recycling, and composting levels shall be calculated, "solid waste" includes only the following:

(1) Materials in the waste stream generated within a local agency's jurisdiction, the types and quantities of which were disposed of at a permitted disposal facility as of January 1, 1990. Nothing in this section requires local agencies to perform waste characterization in addition to the waste characterization requirements established under Sections 41030, 41031, 41331, and 41332.

(2) The amount of solid waste diverted from a landfill or transformation facility through source reduction, recycling, or composting.

(b) For the purposes of this section, "solid waste" does not include any of the following:

(1) Agricultural wastes, except agricultural wastes which were disposed of at a permitted disposal facility as of January 1, 1990, which are diverted, and which are recycled, composted, or reused.

(2) Inert solids, including inert solids used for structural fill, except inert solids which were disposed of at a permitted disposal facility as of January 1, 1990, which are diverted, and which are recycled or reused for paving materials or other construction-related materials.

(3) Scrap metals, except scrap metals which were disposed of at a permitted disposal facility as of January 1, 1990, which are diverted, and which are recycled or reused.

(4) Discarded, white-coated major appliances, except those discarded, white-coated major appliances which were disposed of at a permitted disposal facility as of January 1, 1990, which are diverted, and which are recycled, or refurbished and reused.

(5) Another waste product which would not normally be disposed of at a landfill or transformation facility.

(c) For the purposes of this chapter, the amount of solid waste from which the required reductions are measured shall be the amount of solid waste existing on January 1, 1990, with future adjustments for increases or decreases in the quantity of waste caused only by changes in population or changes in the number or size of governmental, industrial, or commercial operations in the

jurisdiction.

(d) For the purpose of determining recycling levels required pursuant to this article, counties and cities shall include all existing residential, commercial, and industrial source reduction, recycling, and composting activities that divert solid waste from solid waste landfills and transformation facilities.

(e) This section shall become operative on July 1, 1992.

SEC. 3. Section 41781.1 is added to the Public Resources Code, to read:

41781.1. Prior to determining that the diversion of sludge may be counted toward the diversion requirements established under Section 41780, but within 180 days of receiving such a request, the board shall do both of the following:

(a) (1) Make a finding at a public hearing, based upon substantial evidence, that the sludge has been adequately analyzed and will not pose a threat to public health or the environment for the reuse which is proposed.

Except as provided in paragraph (2), prior to making the finding required to be made pursuant to this subdivision, the board shall consult with, and obtain the concurrence in the finding of, each of the following agencies, to the extent of each agency's jurisdiction over the sludge or its intended reuse:

(A) The State Water Resources Control Board and the California Regional Water Quality Control Board.

(B) The State Department of Health Services.

(C) The State Air Resources Board and air pollution control districts and air quality management districts.

(D) The Department of Toxic Substances Control.

Nothing in this section is intended to require an agency to perform any assessment or review of sludge other than the assessment or review required by other provisions of law administered by these agencies.

(2) If, prior to the board making the finding required to be made pursuant to this subdivision, an agency specified in paragraph (1) issues a permit, waste discharge requirements, or imposes other conditions for the reuse of sludge, the agency shall have been deemed to have concurred in that finding.

(b) Establish, or ensure that one or more of the agencies specified in paragraph (1) of subdivision (a) establishes, ongoing monitoring requirements which ensure that the proposed sludge reuse does not pose a threat to public health or the environment.

(c) It is not the intent of this section to require the board, or the agencies listed in paragraph (1) of subdivision (a), to impose additional requirements or approval procedures for sludge or sludge reuse applications, apart from the requirements and approval procedures already imposed by state and federal law. It is the intent of this section to require that the board determine that each sludge diversion for which diversion credit is sought, meets all applicable requirements of state and federal law and thereby provides for

maximum protection of public health and the environment.

SEC. 4. The sum of one hundred sixty-eight thousand dollars ($168,000) is hereby appropriated from the Integrated Waste Management Account in the Integrated Waste Management Fund to the California Integrated Waste Management Board for purposes of the development and implementation of sludge reuse regulations. Any regulations developed pursuant to this section shall provide for maximum protection of public health and the environment consistent with the requirements of state and federal law.

SEC. 5. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to extend the operative effect of existing law beyond October 1, 1991, without interruption, and in order to implement city or county source reduction and recycling elements at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 719

An act to amend Section 25200.5 of, and to add Sections 25200.9, 25200.11, 25200.12, and 25200.13 to, the Health and Safety Code, and to amend Section 21151.1 of the Public Resources Code, relating to hazardous waste.

[Approved by Governor October 7, 1991 Filed with Secretary of State October 9, 1991]

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

SECTION 1. Section 25200.5 of the Health and Safety Code is amended to read:

25200.5. (a) Except as provided in Sections 25200.7 and 25200.9, any person who desires to continue the use or operation of a hazardous waste facility which was in existence on November 19, 1980, or which was in existence on the effective date of any statute or regulation which subjected that facility to hazardous waste facilities permit requirements under this chapter, pending the review and decision of the department on the permit application, may be granted interim status by the department if the person has made application for a permit pursuant to Section 25200 and complied with the requirements of subsection (a) of Section 6930 of Title 42 of the United States Code.

(b) The person operating under an interim status pursuant to this section shall not do any of the following acts:

(1) Treat, store, transfer, or dispose of hazardous wastes which are not specified in Part A of the permit application.

(2) Employ processes not described in Part A of the permit

application.

(3) Exceed the design capacities specified in Part A of the permit application.

(c) A facility operating under interim status is not subject to civil or criminal penalties for operating without a permit, but is otherwise subject to this chapter and the rules, regulations, standards, and requirements issued or adopted pursuant to this chapter. Interim status may be granted subject to any conditions which the department deems necessary to protect public health or the environment. Interim status shall not be valid beyond the date of the decision of the department on the permit application.

(d) The department shall not grant interim status to any person to operate a hazardous waste facility if the facility has been subject to any of the following actions:

(1) Denial of a hazardous waste facilities permit.

(2) Suspension, revocation, or termination of a hazardous waste facilities permit.

(3) Termination of a grant of interim status.

(e) For purposes of this section, "Part A of the permit application" has the same meaning as defined in Section 66151 of Title 22 of the California Code of Regulations, as that section read on January 1, 1988.

(f) Any land disposal facility, as defined in subdivision (h) of Section 25179.3, which lost interim status pursuant to paragraph (2) or (3) of subsection (e) of Section 6925 of Title 42 of the United States Code is deemed to have lost interim status granted under this section to operate a facility managing hazardous waste regulated pursuant to the Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C. Sec. 6901 et seq.).

(g) The termination date for interim status for any land disposal facility, as defined in subdivision (h) of Section 25179.3, which is in existence on the effective date of any statute or the regulation adopted pursuant to that statute which subjects the facility to hazardous waste facilities permit requirements under this chapter, and which is granted interim status under this section, is the date 12 months after the date on which the facility first becomes subject to the hazardous waste facilities permit requirements, unless one of the following applies:

(1) Part A of the facility's permit application specifies that only non-RCRA hazardous waste will be disposed of at the facility, in which case the facility is subject to the termination date specified in Section 25200.11, if the facility is subject to Section 25200.11.

(2) The owner or operator of the facility does both of the following:

(A) Applies for a final determination regarding the issuance of a hazardous waste facilities permit under Section 25200 for the facility before the date 12 months after the date on which the facility first becomes subject to the hazardous waste facilities permit requirements.

(B) Certifies that the facility is in compliance with all applicable groundwater monitoring and financial responsibility requirements.

(h) The termination date for interim status for any incinerator facility which submitted an application for a hazardous waste facilities permit before November 8, 1984, is November 8, 1989, unless one of the following applies:

(1) Part A of the facility's permit application specifies that only non-RCRA hazardous waste will be incinerated at the facility, in which case the facility is subject to the termination date specified in Section 25200.11, if the facility is subject to Section 25200.11.

(2) The owner or operator of the facility applied for a final determination regarding the issuance of a hazardous waste facilities permit under Section 25200 for the facility on or before November 8, 1986.

(i) The termination date for interim status for any facility, other than a facility specified in subdivision (g) or (h), which submitted an application for a hazardous waste facilities permit before November 8, 1984, is November 8, 1992, unless one of the following applies:

(1) Part A of the facility's permit application specifies that only non-RCRA hazardous waste will be transferred, treated, or stored at the facility, and the facility is in compliance with its Part A application, in which case the facility is subject to the termination date specified in Section 25200.11, if the facility is subject to Section 25200.11.

(2) The owner or operator of the facility applied for a final determination regarding the issuance of a hazardous waste facilities permit under Section 25200 for the facility on or before November 8, 1988.

(j) On or before July 1, 1993, the department shall take final action on each application for a hazardous waste facilities permit, to be issued pursuant to Section 25200, which was filed before November 8, 1984, for an offsite hazardous waste facility subject to subdivision (i), and not subject to Section 25200.7 or 25200.11. In taking final action pursuant to this subdivision, the department shall either issue the hazardous waste facilities permit or make a final denial of the application.

SEC. 2. Section 25200.9 is added to the Health and Safety Code, to read:

25200.9. On and after January 1, 1992, the department shall not grant interim status for any hazardous waste facility pursuant to Section 25200.5, unless the hazardous waste management activities at the facility were not subject to the hazardous waste facilities permit requirements until on or after January 1, 1990, and the hazardous waste facility had been engaged in these activities before the date that the activities at the facility became subject to hazardous waste facility permit requirements.

SEC. 3. Section 25200.11 is added to the Health and Safety Code, to read:

25200.11. (a) On or before July 1, 1993, the department shall take final action on each application for a hazardous waste facilities permit to be issued pursuant to Section 25200 for an offsite hazardous waste facility which is not subject to the time limits specified in Section 25200.7 and which has been operating under interim status pursuant to Section 25200.5 prior to January 1, 1992, if the permit application was submitted to the department before January 1, 1992. In taking final action pursuant to this section, the department shall either issue the hazardous waste facilities permit or make a final denial of the application. The department may extend final action for one year upon its determination that the permit application is complete and that more time is needed for review and evaluation of the application.

(b) On July 1, 1992, interim status granted for any existing offsite hazardous waste facility which is not subject to the time limits specified in Section 25200.7 shall be terminated, unless the department received an application for a final hazardous waste facilities permit pursuant to Section 25200 on or before June 30, 1992.

SEC. 4. Section 25200.12 is added to the Health and Safety Code, to read:

25200.12. A modification to an offsite facility operating under interim status pursuant to Section 25200.5 that requires a revised Part A application pursuant to Article 4 (commencing with Section 66270.40) of Chapter 20 of Division 4.5 of Title 22 of the California Code of Regulations, as that article read on January 1, 1992, is a discretionary project for purposes of subdivision (a) of Section 21080 of the Public Resources Code and is subject to the requirements of Division 13 (commencing with Section 21000) of the Public Resources Code, unless the modification is otherwise excluded from that division pursuant to paragraphs (2) to (16), inclusive, of subdivision (b) of Section 21080 of the Public Resources Code.

SEC. 5. Section 25200.13 is added to the Health and Safety Code, to read:

25200.13. For purposes of Sections 25200.11 and 25200.12, "offsite facility" means a facility that serves more than one generator of hazardous waste.

SEC. 6. Section 21151.1 of the Public Resources Code is amended to read:

21151.1. (a) Notwithstanding paragraph (6) of subdivision (b) of Section 21080, or Section 21080.5 or 21084, or any other provision of law, except as provided in this section, a lead agency shall prepare or cause to be prepared by contract, and certify the completion of, an environmental impact report or, if appropriate, a modification, addendum, or supplement to an existing environmental impact report, for any project involving any of the following:

(1) The burning of municipal wastes, hazardous waste, or refuse-derived fuel, including, but not limited to, tires, if the project is either of the following:

(A) The construction of a new facility.

(B) The expansion of an existing facility which burns hazardous waste which would increase its permitted capacity by more than 10 percent. This paragraph does not apply to any project exclusively burning hazardous waste, for which a final determination under Section 21080.1 has been made prior to July 14, 1989.

(2) The issuance of a hazardous waste facilities permit to a land disposal facility, as defined in subdivision (d) of Section 25199.1 of the Health and Safety Code.

(3) The issuance of a hazardous waste facilities permit pursuant to Section 25200 of the Health and Safety Code to an offsite large treatment facility, as defined pursuant to subdivision (d) of Section 25205.1 of the Health and Safety Code.

(b) For purposes of paragraph (1) of subdivision (a), the amount of expansion of an existing facility shall be calculated by comparing the proposed facility capacity with whichever of the following is applicable:

(1) The facility capacity authorized in the facility's hazardous waste facilities permit pursuant to Section 25200 of the Health and Safety Code or its grant of interim status pursuant to Section 25200.5 of the Health and Safety Code, or the facility capacity authorized in any state or local agency permit allowing the construction or operation of a facility for the burning of hazardous waste, granted before January 1, 1990.

(2) The facility capacity authorized in the facility's original hazardous waste facilities permit, grant of interim status, or any state or local agency permit allowing the construction or operation of a facility for the burning of hazardous waste, granted on or after January 1, 1990.

(c) Paragraph (1) of subdivision (a) does not apply to any project which does any of the following:

(1) Exclusively burns digester gas produced from manure or any other solid or semisolid animal waste.

(2) Exclusively burns methane gas produced from a disposal site as defined in Section 66714.1 of the Government Code, which is used only for the disposal of solid waste as defined in Section 66719 of the Government Code.

(3) Exclusively burns forest, agricultural, wood, or other biomass wastes.

(4) Exclusively burns hazardous waste in an incineration unit which is transportable and which is either at a site for not longer than three years or is part of a remedial or removal action. For purposes of this paragraph, "transportable" means any equipment which performs a "treatment" as defined in Section 66216 of Title 22 of the California Code of Regulations, and which is transported on a vehicle as defined in Section 66230 of Title 22 of the California Code of Regulations.

(5) Exclusively burns refinery waste in a flare on the site of generation.

(6) Exclusively burns in a flare methane gas produced at a

municipal sewage treatment plant.

(7) Exclusively burns hazardous waste, or exclusively burns hazardous waste as a supplemental fuel, as part of a research, development, or demonstration project which, consistent with federal regulations implementing the Resource Conservation and Recovery Act of 1976 (Public Law 94-580) and amendments thereto, has been determined to be innovative and experimental by the State Department of Health Services and which is limited in type and quantity of waste to that necessary to determine the efficacy and performance capabilities of the technology or process; provided, however, that any facility which operated as a research, development, or demonstration project and for which an application is thereafter submitted for a hazardous waste facility permit for operation other than as a research, development, or demonstration project shall be considered a new facility for the burning of hazardous waste and shall be subject to subdivision (a) of Section 21151.1.

(8) Exclusively burns soils contaminated only with petroleum fuels or the vapors from these soils.

(9) Exclusively treats less than 3,000 pounds of hazardous waste per day in a thermal processing unit operated in the absence of open flame, and submits a worst-case health risk assessment of the technology to the State Department of Health Services for review and distribution to the interested public. This assessment shall be prepared in accordance with guidelines set forth in the Air Toxics Assessment Manual of the California Air Pollution Control Officers Association.

(10) Exclusively burns less than 1,200 pounds of infectious waste per day, as defined in Section 25117.5 of the Health and Safety Code, on hospital sites.

(11) Exclusively burns chemicals and fuels as part of firefighter training.

(12) Exclusively conducts open burns of explosives subject to the requirements of the local or regional air pollution control district and in compliance with OSHA and Cal-OSHA regulations.

(13) Exclusively conducts onsite burning of less than 3,000 pounds per day of fumes directly from a manufacturing or commercial process.

(d) Paragraph (1) of subdivision (a) does not apply to any project for which the State Energy Resources Conservation and Development Commission has assumed jurisdiction under Chapter 6 (commencing with Section 25500) of Division 15.

(e) Paragraphs (2) and (3) of subdivision (a) shall not apply if the facility only manages hazardous waste which is identified or listed pursuant to Section 25140 or 25141 on or after January 1, 1992, but not before that date, or only conducts activities which are regulated pursuant to Chapter 6.5 (commencing with Section 25100) of Division 20 of the Health and Safety Code on or after January 1, 1992, but not before that date.

(f) This section does not exempt any project from any other requirement of this division.

(g) For purposes of this section, offsite facility means a facility that serves more than one generator of hazardous waste.

SEC. 7. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction or because the local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 720

An act to add Section 199.2 to the Code of Civil Procedure, and to add Section 70142.13 to the Government Code, relating to courts.

[Approved by Governor October 7, 1991 Filed with Secretary of State October 9, 1991]

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

SECTION 1. Section 199.2 is added to the Code of Civil Procedure, to read:

199.2. In Placer County prospective jurors residing in the Tahoe Judicial District, except as otherwise provided in this section, shall only be included in trial court venires of divisions of the superior court located within that judicial district during the months of November, December, January, and February. However, each prospective juror residing in the Tahoe Judicial District shall be given the opportunity to elect to serve on juries with respect to trials at other locations during those months in accordance with the rules of the superior court, which shall afford to each eligible resident of the county an opportunity for selection as a trial jury venireman. Additionally, nothing in this section shall preclude the superior court, in its discretion, from ordering a countywide venire in the interest of justice during any time of the year.

SEC. 2. Section 70142.13 is added to the Government Code, to read:

70142.13. (a) In the County of Placer, the court commissioner appointed pursuant to Section 70141 shall hold office at the pleasure of a majority of the judges. Subject to subdivision (c), the superior court may provide that the commissioner, in addition to the duties

prescribed in Section 259 of the Code of Civil Procedure, shall perform the duties of a probate commissioner appointed pursuant to Section 69897 of the Government Code. The superior court may also authorize the commissioner to perform the duties of a juvenile court referee appointed pursuant to Section 247 of the Welfare and Institutions Code, and other duties as specified by the superior court.

(b) The superior court shall not appoint a commissioner pursuant to Section 70141 unless there is a prior finding by the board of supervisors that there are sufficient funds for this purpose.

(c) Any commissioner authorized to perform additional duties pursuant to this section shall have been admitted to practice law in California for not less than five years, but in no case shall a commissioner engage in the practice of law during his or her period of service as a commissioner.

(d) Any commissioner authorized to perform additional duties pursuant to this section shall receive compensation pursuant to a contract recommended by the superior court and approved annually by the board of supervisors. The presiding judge of the superior court shall specify the days, hours, and court locations for the commissioner.

(e) The commissioner appointed pursuant to Section 70141 shall not be counted in the calculation of trial court funding pursuant to Sections 77200 and 77202, and the salary for this position shall not be considered as a part of court operations for Placer County for purposes of Sections 77203 and 77204.

CHAPTER 721

An act to amend Sections 207.1, and 1752.15 of, and to repeal Section 1732.4 of, the Welfare and Institutions Code, relating to juveniles.

[Approved by Governor October 7, 1991 Filed with Secretary of State October 9, 1991]

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

SECTION 1. Section 207.1 of the Welfare and Institutions Code is amended to read:

207.1. (a) No court, judge, referee, peace officer, or employee of a detention facility shall knowingly detain any minor in a jail or lockup, except as provided in subdivision (b) or (d).

(b) Any minor who is alleged to have committed an offense described in subdivision (b) of Section 707, whose case is transferred to a court of criminal jurisdiction pursuant to Section 707.1 after a finding is made that he or she is not a fit and proper subject to be dealt with under the juvenile court law, may be detained in a jail or other secure facility for the confinement of adults, if all of the

following conditions are met:

(1) The juvenile court judge makes a finding at the conclusion of the fitness hearing that the minor's further detention in the juvenile hall would endanger the safety of the public or would be detrimental to the other minors in the juvenile hall.

(2) Contact between the minor and adults in the facility is restricted in accordance with Section 208.

(3) The minor is adequately supervised.

(4) The adult facility has been approved by the Youth Authority as an appropriate place for the detention of minors so transferred.

(c) A minor who is found not to be a fit and proper subject to be dealt with under the juvenile court law shall, upon the conclusion of the fitness hearing, be entitled to be released on bail or on his or her own recognizance upon the same circumstances, terms, and conditions as an adult who is alleged to have committed the same offense.

(d) A minor 14 years of age or older who is taken into temporary custody by a peace officer on the basis of being a person described by Section 602, and who, in the reasonable belief of the peace officer, presents a serious security risk of harm to self or others, may be securely detained in a law enforcement facility that contains a lockup for adults, if all of the following conditions are met:

(1) The minor is held in temporary custody for the purpose of investigating the case, facilitating release of the minor to a parent or guardian, or arranging transfer of the minor to an appropriate juvenile facility.

(2) The minor is detained in the law enforcement facility for a period that does not exceed six hours except as provided in subdivision (g).

(3) The minor is informed at the time he or she is securely detained of the purpose of the secure detention, of the length of time the secure detention is expected to last, and of the maximum six-hour period the secure detention is authorized to last. In the event an extension is granted pursuant to subdivision (g), the minor shall be informed of the length of time the extension is expected to last.

(4) Contact between the minor and adults confined in the facility is restricted in accordance with Section 208.

(5) The minor is adequately supervised.

(6) A log or other written record is maintained by the law enforcement agency showing the offense which is the basis for the secure detention of the minor in the facility, the reasons and circumstances forming the basis for the decision to place the minor in secure detention, and the length of time the minor was securely detained.

Any other minor who is taken into temporary custody by a peace officer on the basis that the minor is a person described by Section 602, may be taken to a law enforcement facility that contains a lockup for adults and may be held in temporary custody in the facility for the purposes of investigating the case, facilitating the release of the

minor to a parent or guardian, or arranging for the transfer of the minor to an appropriate juvenile facility. However, while in the law enforcement facility, the minor may not be securely detained and shall be supervised in a manner so as to ensure that there will be no contact with adults in custody in the facility. If the minor is held in temporary, nonsecure custody within such a facility, the peace officer shall exercise one of the dispositional options authorized by Sections 626 and 626.5 without unnecessary delay and, in every case, within six hours.

As used in this subdivision, "law enforcement facility" includes a police station or a sheriff's station, but does not include a jail, as defined in subdivision (i).

(e) The Department of the Youth Authority shall assist law enforcement agencies, probation departments, and courts with the implementation of this section by doing all of the following:

(1) The Department of the Youth Authority shall advise each law enforcement agency, probation department, and court affected by this section as to its existence and effect.

(2) The Department of the Youth Authority shall inquire of the official in charge of each jail or lockup that reported the confinement of a minor in calendar year 1984 or 1985 as to whether the jail or lockup may be used for the future confinement of any minor pursuant to subdivision (b), and if the Department of the Youth Authority is informed that the jail or lockup may be so used, it shall inspect the jail or lockup and determine whether it is an appropriate place for the secure detention of minors in conformity with the requirements of law.

(3) The Department of the Youth Authority shall make available and shall, upon request, provide technical assistance to each governmental agency that reported the confinement of a minor in a jail or lockup in calendar year 1984 or 1985. The purpose of this technical assistance is to develop alternatives to the use of jails or lockups for the confinement of minors. These alternatives may include secure or nonsecure facilities located apart from an existing jail or lockup; improved transportation or access to juvenile halls or other juvenile facilities; and other programmatic alternatives recommended by the Department of the Youth Authority. The technical assistance shall take such form as the Department of the Youth Authority deems appropriate for effective compliance with this section.

(f) The Department of the Youth Authority may exempt a county that does not have a juvenile hall, or may exempt an offshore law enforcement facility, from compliance with this section for a reasonable period of time, until July 1, 1991, for the purpose of allowing the county or the facility to develop alternatives to the use of jails and lockups for the confinement of minors, if all of the following conditions are met:

(1) The county or the facility submits a written request to the Department of the Youth Authority for an extension of time to

comply with this section.

(2) The Department of the Youth Authority agrees to make available, and the county or the facility agrees to accept, technical assistance to develop alternatives to the use of jails and lockups for the confinement of minors during the period of the extension.

(3) The county or the facility requesting the extension submits to the Department of the Youth Authority a written plan for full compliance with this section by September 1, 1987.

(g) (1) Under the limited conditions of inclement weather, acts of God, or natural disasters that result in the temporary unavailability of transportation, an extension of the six-hour maximum period of detention set forth in paragraph (2) of subdivision (d) may be granted to a county by the Department of the Youth Authority. The extensions may only be granted by the Department of the Youth Authority on an individual, case-by-case basis. If the extension is granted, the detention of minors under those conditions shall not exceed the duration of the special conditions, plus a period reasonably necessary to accomplish transportation of the minor to a suitable juvenile facility, not to exceed six hours after the restoration of available transportation.

A county that receives an extension under this paragraph shall comply with the requirements set forth in subdivision (d). The county shall also provide a written report to the Department of the Youth Authority that specifies when the inclement weather, act of God, or natural disaster ceased to exist, when transportation availability was restored, and when the minor was delivered to a suitable juvenile facility. In the event that the minor was detained for a period in excess of 24 hours, the Department of the Youth Authority shall verify the information contained in the report.

(2) Under the limited condition of temporary unavailability of transportation, an extension of the six-hour maximum period of detention set forth in paragraph (2) of subdivision (d) may be granted by the Department of the Youth Authority to an offshore law enforcement facility. The extension may only be granted by the Department of the Youth Authority on an individual, case-by-case basis. If the extension is granted, the detention of minors under those conditions shall only extend until the next available mode of transportation can be arranged.

An offshore law enforcement facility that receives an extension under this paragraph shall comply with the requirements set forth in subdivision (d). The facility shall also provide a written report to the Department of the Youth Authority that specifies when the next mode of transportation became available, and when the minor was delivered to a suitable juvenile facility. In the event that the minor was detained for a period in excess of 24 hours, the Department of the Youth Authority shall verify the information contained in the report.

(3) At least annually, the Department of the Youth Authority shall review and report on extensions sought and granted under this

subdivision. If, upon that review, the Department of the Youth Authority determines that a county has sought one or more extensions resulting in the excessive confinement of minors in adult facilities, or that a county is engaged in a pattern and practice of seeking extensions, it shall require the county to submit a detailed explanation of the reasons for the extensions sought and an assessment of the need for a conveniently located and suitable juvenile facility. Upon receiving this information, the Department of the Youth Authority shall make available, and the county shall accept, technical assistance for the purpose of developing suitable alternatives to the confinement of minors in adult lockups. Based upon the information provided by the county, the Department of the Youth Authority may also place limits on, or refuse to grant, future extensions requested by the county under this subdivision.

(h) Any county that did not have a juvenile hall on January 1, 1987, may establish a special purpose juvenile hall, as defined by the Department of the Youth Authority, for the detention of minors for a period not to exceed 96 hours. Any county that had a juvenile hall on January 1, 1987, may, in addition to the juvenile hall, also establish a special purpose juvenile hall. The Department of the Youth Authority shall prescribe minimum standards for any such facility.

(i) (1) As used in this chapter, "jail" means any building which contains a locked facility administered by a law enforcement or governmental agency, the purpose of which is to detain adults who have been charged with violations of criminal law and are pending trial, or to hold convicted adult criminal offenders sentenced for less than one year.

(2) As used in this chapter, "lockup" means any locked room or secure enclosure under the control of a sheriff or other peace officer which is primarily for the temporary confinement of adults upon arrest.

(3) As used in this section "offshore law enforcement facility" means a sheriff's station containing a lockup for adults that is located on an island located at least 22 miles from the California coastline.

(j) Nothing in this section shall be deemed to prevent a peace officer or employee of an adult detention facility or jail from escorting a minor into the detention facility or jail for the purpose of administering an evaluation, test, or chemical test pursuant to Section 23157 of the Vehicle Code, if all of the following conditions are met:

(1) The minor is taken into custody by a peace officer on the basis of being a person described by Section 602 and there is no equipment for the administration of the evaluation, test, or chemical test located at a juvenile facility within a reasonable distance of the point where the minor was taken into custody.

(2) The minor is not locked in a cell or room within the adult detention facility or jail, is under the continuous, personal supervision of a peace officer or employee of the detention facility or jail, and is not permitted to come in contact or remain in contact

with in-custody adults.

(3) The evaluation, test, or chemical test administered pursuant to Section 23157 of the Vehicle Code is performed as expeditiously as possible, so that the minor is not unnecessarily delayed within the adult detention facility or jail. Upon completion of the evaluation, test, or chemical test, the minor shall be removed from the detention facility or jail as soon as reasonably possible. No minor shall be held in custody in an adult detention facility or jail under the authority of this paragraph for a period in excess of two hours.

SEC. 2. Section 1732.4 of the Welfare and Institutions Code is repealed.

SEC. 3. Section 1752.15 of the Welfare and Institutions Code is amended to read:

1752.15. The director may enter into contracts, with the approval of the Director of Finance, with any county of this state upon request of the board of supervisors thereof, wherein the Department of the Youth Authority agrees to furnish temporary emergency detention facilities and necessary services incident thereto, for persons under the age of 18 years who are in the custody of the county probation officer pursuant to provisions of Chapter 2 (commencing with Section 200) of Part 1 of Division 2. Facilities of the department may be used only on a temporary basis when existing county juvenile facilities are rendered unsafe or inadequate because of a natural or manmade disaster, or when the continued presence of the minor or minors in the county juvenile facilities would, in the opinion of the judge of the juvenile court having jurisdiction over the minor, of the chief probation officer of the county, and of the director, present a significant risk of violence or escape. They may not be used for the detention of a person who is alleged to be or has been adjudged to be a person described by Section 300 or Section 601.

Whenever any person is detained in a California Youth Authority facility located in a county other than the county which has contracted for services pursuant to this section, the county shall provide for adequate consultation between the minor and his or her attorney; and, if the minor's parent or guardian lacks adequate private means of transportation, and if the minor has been detained in the facility for more than 10 days, the county shall make reasonable efforts to provide for visitation between the minor and his or her parents or guardian.

The county shall reimburse the state for the cost of these services, the cost to be determined by the director. The department shall present to the county, not more than once a month, a claim for the amount due the state under this section which the county shall process and pay pursuant to the provisions of Chapter 4 (commencing with Section 29700) of Division 3 of Title 3 of the Government Code.

CHAPTER 722

An act to amend Sections 1347, 1356, and 1382 of, and to add Section 1356.1 to, the Health and Safety Code, relating to prepaid health plans.

[Approved by Governor October 7, 1991. Filed with Secretary of State October 9, 1991]

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

SECTION 1. Section 1347 of the Health and Safety Code is amended to read:

1347. (a) There is established in the Department of Corporations a Health Care Service Plan Advisory Committee consisting of 20 members. The members shall consist of the commissioner or the commissioner's designee; a physician and surgeon with five years' experience in providing services to enrollees of a health care service plan; a person with expertise and five years' experience in an administrative capacity of a hospital-based plan; a person with five years' experience with a corporation formed under Section 9201 of the Corporations Code; a person with five years' experience with a non-hospital-based independent practice association; a person with expertise and five years' experience in a health care service plan which is a hospital-based independent practice association; a person with five years' experience in an administrative capacity with a non-hospital-based health care service plan; a person with five years' experience in an administrative capacity with a specialized health care service plan; a certified public accountant with five years' experience in auditing plans; and six public members having no financial interest in the delivery of health care services or in plans except for being enrolled in a health care service plan or specialized health care service plan.

The members shall also include two persons with five years' experience in an administrative capacity with a dental service plan, two persons with five years' experience in an administrative capacity with a vision service plan, and one person with five years' experience in an administrative capacity with a mental health service plan, all of whom shall be appointed by the commissioner for a term of three years commencing January 1, 1989. With respect only to one of the members appointed who is required to have five years' experience in an administrative capacity with a vision service plan, until January 1, 1996, the commissioner may at his or her discretion substitute for the five years' experience requirement compensating factors such as professional education, experience in related fields, and other factors as the commissioner deems relevant.

The members shall be appointed by the commissioner for a term of three years, except that of the members first appointed, four shall serve for a term of one year and five shall serve for a term of two

years, as designated by the commissioner.

The committee shall meet at least quarterly and at the call of the chairperson. The commissioner or the commissioner's designee shall be chairperson of the committee. The committee may establish its own rules and procedures. All members shall serve without compensation, but the six public members shall be reimbursed from department funds for expenses actually and necessarily incurred by them in the performance of their duties.

(b) The purpose of the committee is to assist and advise the commissioner in the implementation of the commissioner's duties under this chapter. The commissioner shall consult with the advisory committee on regulations and the recommendations of the committee shall be made a part of the record with regard to such regulations. The committee shall be given at least 45 days to review and comment on regulations prior to setting a notice of hearing for proposed regulations. Nothing in this subdivision prohibits the commissioner from promulgating urgency regulations pursuant to the provisions of the Administrative Procedure Act. The commissioner shall discuss budget changes relating to the administration of this chapter with the committee, and the committee may make recommendations to the commissioner regarding the proposed budget changes.

SEC. 2. Section 1356 of the Health and Safety Code, as amended by Section 5 of Chapter 1043 of the Statutes of 1990, is amended to read:

1356. (a) Each plan applying for licensure under this chapter shall reimburse the commissioner for the actual cost of processing the application, including overhead, up to an amount not to exceed twenty-five thousand dollars ($25,000). The cost shall be billed not more frequently than monthly and shall be remitted by the applicant to the commissioner within 30 days of the date of billing. The commissioner shall not issue a license to any applicant prior to receiving payment in full for all amounts charged pursuant to this subdivision.

(b) In addition to other fees and reimbursements required to be paid under this chapter, each licensed plan shall pay to the commissioner an amount as estimated by the commissioner for the ensuing fiscal year, as a reimbursement of its share of all costs and expenses, including routine financial examinations, medical surveys, and overhead, reasonably incurred in the administration of this chapter and not otherwise recovered by the commissioner under this chapter or from the General Fund. The amount may be paid in two equal installments. The first installment shall be paid on or before August 1 of each year, and the second installment shall be paid on or before December 15 of each year. The amount paid by each plan, except a plan offering only specialized health care service plan contracts, shall be twelve thousand five hundred dollars ($12,500), plus an amount up to but not exceeding an amount computed in accordance with the following schedule:

Plan Enrollment	Amount of Assessment
0 to 25,000	$0 + 35 cents for each enrollee
25,001 to 75,000	$8,750 + 23 cents for each enrollee in excess of 25,000
75,001 to 150,000	$20,250 + 20 cents for each enrollee in excess of 75,000
150,001 to 300,000	$35,250 + 17 cents for each enrollee in excess of 150,000
over 300,000	$60,750 + 15 cents for each enrollee in excess of 300,000

Plans offering only specialized health care service plan contracts shall pay seven thousand five hundred dollars ($7,500), plus an amount up to, but not exceeding, an amount computed in accordance with the following schedule:

Plan Enrollment	Amount of Assessment
0 to 25,000	$0 + 35 cents for each enrollee
25,001 to 75,000	$8,750 + 23 cents for each enrollee in excess of 25,000
75,001 to 150,000	$20,250 + 17 cents for each enrollee in excess of 75,000
150,001 to 300,000	$33,000 + 13 cents for each enrollee in excess of 150,000
over 300,000	$52,500 + 11 cents for each enrollee in excess of 300,000

The amount paid by each plan shall be for each enrollee enrolled in its plan in this state as of the preceding March 31, and shall be fixed by the commissioner by notice to all licensed plans on or before June 15 of each year. A plan that is unable to report the number of enrollees enrolled in the plan because it does not collect that data, shall provide the commissioner with an estimate of the number of enrollees enrolled in the plan and the method used for determining the estimate. The commissioner may, upon giving written notice to the plan, revise the estimate if the commissioner determines that the method used for determining the estimate was not reasonable.

In determining the amount assessed, the commissioner shall consider all appropriations from the General Fund for the support of this chapter and all reimbursements provided for in this chapter.

(c) By notice to all licensed plans on or about January 15, 1992, the commissioner may assess a pro rata special assessment on all plans of up to one-half of the amount by which the aggregate assessment increased pursuant to the additional assessment authority authorized by the statute of the 1991 portion of the 1991–92 Regular Session that amended this section.

(d) The expense of requiring nonprofit hospital service plans described in paragraph (3) of subdivision (d) of Section 1343 to

comply with the financial requirements of this chapter shall be charged against each nonprofit hospital service plan. The amount charged shall be the actual cost associated with regulating a nonprofit hospital service plan described in paragraph (3) of subdivision (d) of Section 1343, including the actual salaries or compensation paid to the persons conducting the administration and enforcement, the expenses incurred in the course thereof, and overhead costs in connection therewith as fixed by the commissioner. In determining the cost of the administration or enforcement, the commissioner may use the estimated average hourly cost for all persons of similar classification performing administration or enforcement for the fiscal year. The amounts charged shall be billed not more frequently than monthly and shall be remitted by the nonprofit hospital service plan to the commissioner within 30 days of the date of billing.

(e) Each nonprofit hospital service plan and each licensed plan may also be required to pay two thousand dollars ($2,000) plus an amount up to, but not exceeding forty-eight hundredths of one cent ($0.0048) for each enrollee for the purpose of reimbursing its share of all costs and expenses, including overhead, reasonably anticipated to be incurred by the department in administering Sections 1394.7 and 1394.8 during the current fiscal year. The amount charged shall be remitted within 30 days of the date of the commissioner's notice to the nonprofit hospital service plan and each licensed plan of the amounts owed.

(f) In no case shall the reimbursement, payment, special assessment, or other fee authorized by this section exceed the cost, including overhead, reasonably incurred in the administration of this chapter.

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

SEC. 2.5. Section 1356 of the Health and Safety Code, as amended by Section 5 of Chapter 1043 of the Statutes of 1990, is amended to read:

1356. (a) Each plan applying for licensure under this chapter shall reimburse the commissioner for the actual cost of processing the application, including overhead, up to an amount not to exceed twenty-five thousand dollars ($25,000). The cost shall be billed not more frequently than monthly and shall be remitted by the applicant to the commissioner within 30 days of the date of billing. The commissioner shall not issue a license to any applicant prior to receiving payment in full for all amounts charged pursuant to this subdivision.

(b) In addition to other fees and reimbursements required to be paid under this chapter, each licensed plan shall pay to the commissioner an amount as estimated by the commissioner for the ensuing fiscal year, as a reimbursement of its share of all costs and expenses, including routine financial examinations, medical surveys,

and overhead, reasonably incurred in the administration of this chapter and not otherwise recovered by the commissioner under this chapter or from the General Fund. The amount may be paid in two equal installments. The first installment shall be paid on or before August 1 of each year, and the second installment shall be paid on or before December 15 of each year. The amount paid by each plan, except a plan offering only specialized health care service plan contracts, shall be twelve thousand five hundred dollars ($12,500), plus an amount up to but not exceeding an amount computed in accordance with the following schedule:

Plan Enrollment	Amount of Assessment
0 to 25,000	$0 + 35 cents for each enrollee
25,001 to 75,000	$8,750 + 23 cents for each enrollee in excess of 25,000
75,001 to 150,000	$20,250 + 20 cents for each enrollee in excess of 75,000
150,001 to 300,000	$35,250 + 17 cents for each enrollee in excess of 150,000
over 300,000	$60,750 + 15 cents for each enrollee in excess of 300,000

Plans offering only specialized health care service plan contracts shall pay seven thousand five hundred dollars ($7,500), plus an amount up to, but not exceeding, an amount computed in accordance with the following schedule:

Plan Enrollment	Amount of Assessment
0 to 25,000	$0 + 35 cents for each enrollee
25,001 to 75,000	$8,750 + 23 cents for each enrollee in excess of 25,000
75,001 to 150,000	$20,250 + 17 cents for each enrollee in excess of 75,000
150,001 to 300,000	$33,000 + 13 cents for each enrollee in excess of 150,000
over 300,000	$52,500 + 11 cents for each enrollee in excess of 300,000

The amount paid by each plan shall be for each enrollee enrolled in its plan in this state as of the preceding March 31, and shall be fixed by the commissioner by notice to all licensed plans on or before June 15 of each year. A plan that is unable to report the number of enrollees enrolled in the plan because it does not collect that data, shall provide the commissioner with an estimate of the number of enrollees enrolled in the plan and the method used for determining the estimate. The commissioner may, upon giving written notice to the plan, revise the estimate if the commissioner determines that the method used for determining the estimate was not reasonable.

In determining the amount assessed, the commissioner shall consider all appropriations from the General Fund for the support

of this chapter and all reimbursements provided for in this chapter.

(c) By notice to all licensed plans on or about January 15, 1992, the commissioner may assess a pro rata special assessment on all plans of up to one-half of the amount by which the aggregate assessment increased pursuant to the additional assessment authority authorized by the statute of the 1991 portion of the 1991–92 Regular Session that amended this section.

(d) The expense of requiring nonprofit hospital service plans described in paragraph (3) of subdivision (d) of Section 1343 to comply with the financial requirements of this chapter shall be charged against each nonprofit hospital service plan. The amount charged shall be the actual cost associated with regulating a nonprofit hospital service plan described in paragraph (3) of subdivision (d) of Section 1343, including the actual salaries or compensation paid to the persons conducting the administration and enforcement, the expenses incurred in the course thereof, and overhead costs in connection therewith as fixed by the commissioner. In determining the cost of the administration or enforcement, the commissioner shall use the estimated average hourly cost for all persons of similar classification performing administration or enforcement for the fiscal year. The amounts charged shall be billed not more frequently than monthly and shall be remitted by the nonprofit hospital service plan to the commissioner within 30 days of the date of billing.

(e) Each nonprofit hospital service plan and each licensed plan may also be required to pay two thousand dollars ($2,000) plus an amount up to, but not exceeding forty-eight hundredths of one cent ($0.0048) for each enrollee for the purpose of reimbursing its share of all costs and expenses, including overhead, reasonably anticipated to be incurred by the department in administering Sections 1394.7 and 1394.8 during the current fiscal year. The amount charged shall be remitted within 30 days of the date of the commissioner's notice to the nonprofit hospital service plan and each licensed plan of the amounts owed.

(f) In no case shall the reimbursement, payment, special assessment, or other fee authorized by this section exceed the cost, including overhead, reasonably incurred in the administration of this chapter.

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

SEC. 3. Section 1356 of the Health and Safety Code, as added by Section 6 of Chapter 1043 of the Statutes of 1990, is amended to read:

1356. (a) Each plan applying for licensure under this chapter shall reimburse the commissioner for the actual cost of processing the application, including overhead, up to an amount not to exceed twenty-five thousand dollars ($25,000). The cost shall be billed not more frequently than monthly and shall be remitted by the applicant to the commissioner within 30 days of the date of billing. The

commissioner shall not issue a license to any applicant prior to receiving payment in full for all amounts charged pursuant to this subdivision.

(b) In addition to other fees and reimbursements required to be paid under this chapter, each licensed plan shall pay to the commissioner an amount as estimated by the commissioner for the ensuing fiscal year, as a reimbursement of its share of all costs and expenses, including routine financial examinations, medical surveys and overhead, reasonably incurred in the administration of this chapter and not otherwise recovered by the commissioner under this chapter or from the General Fund. The amount may be paid in two equal installments. The first installment shall be paid on or before August 1 of each year, and the second installment shall be paid on or before December 15 of each year. The amount paid by each plan, except a plan offering only specialized health care service plan contracts, shall be twelve thousand five hundred dollars ($12,500), plus an amount up to but not exceeding an amount computed in accordance with the following schedule:

Plan Enrollment	Amount of Assessment
0 to 25,000	$0 + 35 cents for each enrollee
25,001 to 75,000	$8,750 + 23 cents for each enrollee in excess of 25,000
75,001 to 150,000	$20,250 + 20 cents for each enrollee in excess of 75,000
150,001 to 300,000	$35,250 + 17 cents for each enrollee in excess of 150,000
over 300,000	$60,750 + 15 cents for each enrollee in excess of 300,000

Plans offering only specialized health care service plan contracts shall pay seven thousand five hundred dollars ($7,500), plus an amount up to, but not exceeding, an amount computed in accordance with the following schedule:

Plan Enrollment	Amount of Assessment
0 to 25,000	$0 + 35 cents for each enrollee
25,001 to 75,000	$8,750 + 23 cents for each enrollee in excess of 25,000
75,001 to 150,000	$20,250 + 17 cents for each enrollee in excess of 75,000
150,001 to 300,000	$33,000 + 13 cents for each enrollee in excess of 150,000
over 300,000	$52,500 + 11 cents for each enrollee in excess of 300,000

The amount paid by each plan shall be for each enrollee enrolled in its plan in this state as of the preceding March 31, and shall be fixed by the commissioner by notice to all licensed plans on or before June 15th of each year. A plan that is unable to report the number of

enrollees enrolled in the plan because it does not collect that data, shall provide the commissioner with an estimate of the number of enrollees enrolled in the plan and the method used for determining the estimate. The commissioner may, upon giving written notice to the plan, revise the estimate if the commissioner determines that the method used for determining the estimate was not reasonable.

In determining the amount assessed, the commissioner shall consider all appropriations from the General Fund for the support of this chapter and all reimbursements provided for in this chapter.

(c) Each licensed plan shall also pay two thousand dollars ($2,000) plus an amount up to, but not exceeding, forty-eight hundredths of one cent ($0.0048) for each enrollee for the purpose of reimbursing its share of all costs and expenses, including overhead, reasonably anticipated to be incurred by the department in administering Sections 1394.7 and 1394.8 during the current fiscal year. The amount charged shall be remitted within 30 days of the date of billing.

(d) In no case shall the reimbursement, payment, or other fee authorized by this section exceed the cost, including overhead, reasonably incurred in the administration of this chapter.

(e) This section shall become operative April 1, 1993.

SEC. 4. Section 1356.1 is added to the Health and Safety Code, to read:

1356.1. Notwithstanding subdivision (f) of Section 1356, as amended by Section 5 of Chapter 1043 of the Statutes of 1990, and subdivision (d) of Section 1356, as added by Section 6 of Chapter 1043 of the Statutes of 1990, if the commissioner determines that the charges and assessments set forth in this chapter for any year are in excess of the amount necessary, or are insufficient, to meet the expenses of administration of this chapter, for that year, the assessments and charges for the following year shall be adjusted on a pro rata basis in accordance with the percentage of the excess or insufficiency as related to the actual charges and assessments for the year for which the excess or insufficiency occurred, in order to recover the actual costs of administration.

SEC. 5. Section 1382 of the Health and Safety Code is amended to read:

1382. (a) The commissioner shall conduct an examination of the fiscal and administrative affairs of any plan, and each person with whom the plan has made arrangements for administrative, management, or financial services, as often as deemed necessary to protect the interest of subscribers or enrollees, but not less frequently than once every five years.

(b) The expense of conducting any additional or nonroutine examinations pursuant to this section, and the expense of conducting any additional or nonroutine medical surveys pursuant to Section 1380 shall be charged against the plan being examined or surveyed. The amount shall include the actual salaries or compensation paid to the persons making the examination or survey, the expenses incurred in the course thereof, and overhead costs in connection

therewith as fixed by the commissioner. In determining the cost of examinations or surveys, the commissioner may use the estimated average hourly cost for all persons performing examinations or surveys of plans for the fiscal year. The amount charged shall be remitted by the plan to the commissioner. If recovery of these costs cannot be made from the plan, these costs may be added to, but subject to the limitation of, the assessment provided for in subdivision (b) of Section 1356.

(c) Reports of all examinations shall be open to public inspection, except that no examination shall be made public, unless the plan has had an opportunity to review the examination report and file a statement or response within 30 days, to be attached to the report. Deficiencies shall not be made public if they are corrected within 30 days of the date that the plan was notified of the deficiency.

SEC. 6. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

SEC. 7. Section 2.5 of this bill incorporates amendments to Section 1356 of the Health and Safety Code, as amended by Section 5 of Chapter 1043 of the Statutes of 1990, proposed by both this bill and SB 244. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1992, (2) each bill amends Section 1356 of the Health and Safety Code, as amended by Section 5 of Chapter 1043 of the Statutes of 1990, and (3) this bill is enacted after SB 244, in which case Section 2 of this bill shall not become operative.

CHAPTER 723

An act to add Sections 13553, 13554, 13554.2, and 13554.3 to the Water Code, relating to water.

[Approved by Governor October 7, 1991. Filed with Secretary of State October 9, 1991.]

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

SECTION 1. Section 13553 is added to the Water Code, to read:

13553. (a) The Legislature hereby finds and declares that the use of potable domestic water for toilet and urinal flushing in nonresidential structures and those structures defined in Group I-3

in Table No. 5-A of the Uniform Building Code is a waste or an unreasonable use of water within the meaning of Section 2 of Article X of the California Constitution if reclaimed water, for these uses, is available to the user and meets the requirements set forth in Section 13550, as determined by the state board after notice and a hearing.

(b) The state board may require a public agency or person subject to this section to furnish whatever information may be relevant to making the determination required in subdivision (a).

SEC. 2. Section 13554 is added to the Water Code, to read:

13554. (a) Any public agency, including a state agency, city, county, city and county, district, or any other political subdivision of the state, may require the use of reclaimed water for toilet and urinal flushing in nonresidential structures and those structures defined in Group I-3 in Table No. 5-A of the Uniform Building Code, except a mental hospital or other facility operated by a public agency for the treatment of persons with mental disorders, if all of the following requirements are met:

(1) Reclaimed water, for these uses, is available to the user and meets the requirements set forth in Section 13550, as determined by the state board after notice and a hearing.

(2) The use of reclaimed water does not cause any loss or diminution of any existing water right.

(3) The public agency has prepared an engineering report pursuant to Section 60323 of Title 22 of the California Code of Regulations that includes plumbing design, cross-connection control, and monitoring requirements for the use site, which are in compliance with criteria established pursuant to Section 13521.

(b) This section applies only to either of the following:

(1) New structures for which the building permit is issued on or after March 15, 1992, or, if a building permit is not required, new structures for which construction begins on or after March 15, 1992.

(2) Any construction pursuant to subdivision (a) for which the State Department of Health Services has, prior to January 1, 1992, approved the use of reclaimed water.

(c) Division 13 (commencing with Section 21000) of the Public Resources Code does not apply to any project which only involves the repiping, redesign, or use of reclaimed water by a nonresidential structure necessary to comply with a requirement issued by a public agency under subdivision (a). This exemption does not apply to any project to develop reclaimed water, to construct conveyance facilities for reclaimed water, or any other project not specified in this subdivision.

SEC. 3. Section 13554.2 is added to the Water Code, to read:

13554.2. (a) The State Department of Health Services may establish a reasonable schedule of fees by which the department is reimbursed for the costs it incurs pursuant to Sections 13553 and 13554.

(b) For purposes of implementing a fee schedule pursuant to subdivision (a), the State Department of Health Services shall

maintain a record of its costs. In determining those costs, the department may consider personnel requirements, materials, travel expenses, office overhead, and other relevant direct and indirect expenses.

SEC. 4. Section 13554.3 is added to the Water Code, to read:

13554.3. The State Water Resources Control Board may establish a reasonable schedule of fees by which it is reimbursed for the costs it incurs pursuant to Sections 13553 and 13554.

CHAPTER 724

An act to amend Sections 25299.2 and 25299.4 of the Health and Safety Code, relating to hazardous substances, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 7, 1991 Filed with Secretary of State October 9, 1991]

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

SECTION 1. Section 25299.2 of the Health and Safety Code is amended to read:

25299.2. (a) Except as provided in subdivision (a) of Section 25299.4, this chapter does not preclude or deny the right of a local agency to adopt and enforce any regulation, requirement, or standard of performance that is more stringent than a regulation, requirement, or standard of performance in effect under this chapter with respect to underground storage tanks, if the regulation, requirement, or standard of performance, as provided in this subdivision, is consistent with this chapter.

(b) This chapter shall not be construed to preclude or deny the right of a local agency to regulate tanks which are not subject to regulation under this chapter or the federal act.

SEC. 2. Section 25299.4 of the Health and Safety Code is amended to read:

25299.4. (a) (1) After January 1, 1984, any local agency may apply to the board for authority to implement design and construction standards for the containment of a hazardous substance in underground storage tanks which are in addition to those set forth in this chapter. The application shall include a description of the additional standards and a discussion of the need to implement them. The board shall approve the application if it finds, after an investigation and public hearing, that the local agency has demonstrated by clear and convincing evidence that the additional standards are necessary to adequately protect the soil and the beneficial uses of the waters of the state from unauthorized releases.

(2) The board shall make its determination within six months of the date of application for authority to implement additional

standards. If the board's determination upholds the application for authority to implement additional standards, the standards shall be effective as of the date of the determination. If the board's determination does not uphold the application, the additional standards shall not go into effect.

(b) (1) Any permitholder or permit applicant may apply to the regional board having jurisdiction over the location of the permitholder or applicant's facility for a site-specific variance from Section 25291 or 25292. A site-specific variance is an alternative procedure which is applicable in one local agency jurisdiction. Prior to applying to the regional board, the permitholder shall first contact the local agency pursuant to paragraph (5).

(2) The regional board shall hold a public hearing 60 days after the completion of any documents required by the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

(3) The regional board shall consider the local agency's and the city, county, or city and county's recommendations in rendering its decision. Failure of the local agency or city, county, or city and county to join in the variance application pursuant to paragraph (5) shall not affect the request of the applicant to proceed with the variance application.

(4) The regional board shall approve the variance if it finds, after investigation and public hearing, that the applicant has demonstrated by clear and convincing evidence either of the following:

(A) Because of the facility's special circumstances, not generally applicable to other facilities' property, including size, shape, design, topography, location, or surroundings, the strict application of Sections 25291 and 25292 is unnecessary to adequately protect the soil and beneficial uses of the waters of the state from an unauthorized release.

(B) Strict application of the standards of Sections 25291 and 25292 would create practical difficulties not generally applicable to other facilities or property and that the proposed alternative will adequately protect the soil and beneficial uses of the waters of the state from an unauthorized release.

(5) Before applying for a variance, the applicant shall contact the local agency to determine if a site-specific variance is required. If the local agency determines that a site-specific variance is required or does not act within 60 days, the applicant may proceed with the variance procedure in subdivision (a).

(6) At least 30 days before applying to the appropriate regional board, the applicant shall notify and request the city, county, or city and county to join the applicant in the variance application before the regional board.

(A) The city, county, or city and county shall provide notice of the receipt of that request to any person who has requested the notice.

(B) The local agency within the city, county, or city and county

which has the jurisdiction for land use decisions shall have 30 days from completion of any documents required by the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code) to act on the applicant's request to join the applicant.

(c) Applicants requesting a variance pursuant to subdivision (b) shall pay a fee determined by the board to be necessary to recover the reasonable cost of administering subdivision (b).

(d) The permit issued for any underground storage tank issued a variance pursuant to subdivision (b) shall require compliance with any conditions prescribed by the board or a regional board in issuing the variance. The conditions prescribed by the board or regional board in the permit shall include any conditions necessary to assure compliance with any applicable requirements of the federal act.

(e) This section does not apply to or within any city or county which was exempt from implementing this chapter as of December 31, 1984.

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

In order to delete the provisions which allow underground storage tanks containing hazardous substances to be exempted from regulation, thereby better protecting human health and safety and the environment, it is necessary that this act take effect immediately.

CHAPTER 725

An act to add Section 5107 to the Business and Professions Code, relating to consumer affairs, and making an appropriation therefor.

[Approved by Governor October 7, 1991 Filed with Secretary of State October 9, 1991.]

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

SECTION 1. Section 5107 is added to the Business and Professions Code, to read:

5107. (a) The executive officer of the board may request the administrative law judge, as part of the proposed decision in a disciplinary proceeding, to direct any holder of a permit or certificate found guilty of unprofessional conduct in violation of subdivisions (b), (c), (i), and (j) of Section 5100, or involving a felony conviction in violation of subdivision (a) of Section 5100, or involving fiscal dishonesty in violation of subdivision (h) of Section 5100, to pay to the board all reasonable costs of investigation and prosecution of the case, including, but not limited to, attorneys' fees. The board shall not recover costs incurred at the administrative hearing.

(b) A certified copy of the actual costs, or a good faith estimate of costs where actual costs are not available, signed by the executive officer, shall be prima facie evidence of reasonable costs of investigation and prosecution of the case.

(c) The administrative law judge shall make a proposed finding of the amount of reasonable costs of investigation and prosecution of the case when requested to do so by the executive officer pursuant to subdivision (a). Costs are payable 120 days after the board's decision is final unless otherwise provided for by the administrative law judge or if the time for payment is extended by the board.

(d) The finding of the administrative law judge with regard to cost shall not be reviewable by the board to increase the cost award. The board may reduce or eliminate the cost award, or remand to the administrative law judge where the proposed decision fails to make a finding on costs requested by the executive officer pursuant to subdivision (a).

(e) The administrative law judge may make a further finding that the amount of reasonable costs awarded shall be reduced or eliminated upon a finding that respondent has demonstrated that he or she cannot pay all or a portion of the costs or that payment of the costs would cause an unreasonable financial hardship which can not be remedied through a payment plan.

(f) When an administrative law judge makes a finding that costs be waived or reduced, he or she shall set forth the factual basis for his or her finding in the proposed decision.

(g) Where an order for recovery of costs is made and timely payment is not made as directed by the board's decision, the board may enforce the order for payment in any appropriate court. This right of enforcement shall be in addition to any other rights the board may have as to any holder of a permit or certificate directed to pay costs.

(h) In any judicial action for the recovery of costs, proof of the board's decision shall be conclusive proof of the validity of the order of payment and the terms of payment.

(i) All costs recovered under this section shall be deposited in the Accountancy Fund.

(j) (1) Except as provided in paragraph (2), the board shall not renew or reinstate the permit or certificate of any holder who has failed to pay all of the costs ordered under this section.

(2) Notwithstanding, paragraph (1), the board may, in its discretion, conditionally renew or reinstate for a maximum of one year the permit or certificate of any holder who demonstrates financial hardship and who enters into a formal agreement with the board to reimburse the board within that one year period for those unpaid costs.

(k) Nothing in this section shall preclude the board from seeking recovery of costs in an order or decision made pursuant to an agreement entered into between the board and the holder of any permit or certificate.

CHAPTER 726

An act to amend Sections 23355.2, 23357, and 25658.4 of, and to add Section 23396.1 to, the Business and Professions Code, relating to alcoholic beverages.

[Approved by Governor October 7, 1991. Filed with Secretary of State October 9, 1991]

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

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

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

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

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

(2) Prior to providing a key, magnetic card, or other similar device required to attain access to the controlled access alcoholic beverage cabinet in a particular guestroom to the registered guest thereof, or prior to otherwise providing access thereto to the registered guest, the licensee shall verify, in accordance with Article 3 (commencing with Section 25657), of Chapter 16 of this division, that each registered guest to whom a key, magnetic card, or similar device is provided, or to whom access is otherwise provided, is not a minor.

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

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

(c) Notwithstanding any other provision of this division, a hotel or motel having an on-sale general license or an on-sale general license for restricted service lodging establishments may, upon issuance of a permit from the department, sell from its controlled access

alcoholic beverage cabinets distilled spirits in containers of 50 milliliters or less, or in containers of comparable size. The department shall charge an annual fee for a permit issued pursuant to this subdivision equal to the annual renewal fee applicable to an off-sale general license pursuant to Section 23320.

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

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

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

SEC. 2. Section 23357 of the Business and Professions Code is amended to read:

23357. A licensed beer manufacturer may, at the licensed premises of production, sell to consumers for consumption off the premises beer which is produced and bottled by, or produced and packaged for that manufacturer. Licensed beer manufacturers may also sell beer to any person holding a license authorizing the sale of beer and may sell beer to consumers for consumption on the manufacturer's licensed premises or on premises owned by the manufacturer which are contiguous to the licensed premises and which are operated by and for the manufacturer. Licensed beer manufacturers may also sell beer and wine, regardless of source, to consumers for consumption at a bona fide public eating place on the manufacturer's licensed premises or at a bona fide public eating place on premises owned by the manufacturer which are contiguous to the licensed premises and which are operated by and for the manufacturer. Notwithstanding any other provision of this division, licensed beer manufacturers and holders of out-of-state beer manufacturer's certificates may be issued and may hold retail package off-sale beer and wine licenses. Alcoholic beverage products sold at or from the off-sale premises which are not produced and bottled by, or produced and packaged for, the beer manufacturer

shall be purchased by the beer manufacturer only from a licensed wholesaler.

SEC. 3. Section 23396.1 is added to the Business and Professions Code, to read:

23396.1. (a) An on-sale general license for restricted service lodging establishments authorizes those hotels and motels described in subdivision (b) to sell or furnish alcoholic beverages for consumption on the premises by means of:

(1) Controlled access alcoholic beverage cabinets located in guestrooms, subject to the conditions specified in Section 23355.2.

(2) Furnishing alcoholic beverages only to their transient guests and their invitees under circumstances where the uniform cost of the alcoholic beverages is included in the price of the overnight transient occupancy accommodation, whether or not separately stated.

(b) For purposes of this division, a "restricted service lodging establishment" is a hotel or motel, within the meaning of subdivision (f) of Section 23355.2, which meets all of the following conditions:

(1) It does not operate a bona fide eating place or other public premise.

(2) It has at least 10 guestroom accommodations.

(3) It does not derive more than 5 percent of its total gross annual revenues from sales of alcoholic beverages.

(c) A premises licensed pursuant to this section shall not be authorized to sell or furnish alcoholic beverages to the general public, shall not be entitled to a caterer's permit pursuant to Section 23399, and shall not be entitled to exercise any off-sale privileges pursuant to Section 23401. The provisions of Article 2 (commencing with Section 23815) of Chapter 5 do not apply to the issuance of on-sale general licenses for restricted service lodging establishments. An on-sale general restricted service lodging establishment license may be transferred to another person but not to another location. A licensee specified in this section shall purchase no alcoholic beverages for sale in this state other than from a wholesaler or winegrower licensee.

(d) An applicant for an original on-sale general license for restricted service lodging establishments shall, at the time of filing the application for the license, accompany the application with a fee of six thousand dollars ($6,000). The annual renewal fee for a license issued pursuant to this section shall be the same as the applicable annual renewal fee for an on-sale general license.

SEC. 4. Section 25658.4 is added to the Business and Professions Code, to read:

25658.4. (a) On and after January 1, 1992, no clerk shall make an off-sale of alcoholic beverages unless the clerk executes under penalty of perjury on the first day he or she makes such a sale an application and acknowledgment. The application and acknowledgment shall be in a form understandable to the clerk.

(1) The department shall specify the form of the application and acknowledgment which shall include at a minimum a summary of

this division pertaining to the following:

(A) The prohibitions contained in Sections 25658 and 25658.5 pertaining to the sale to, and purchase of, alcoholic beverages by persons under 21 years of age.

(B) Bona fide evidence of majority as provided in Section 25660.

(C) Hours of operation as provided in Article 2 (commencing with Section 25630) of Chapter 16.

(D) The prohibitions contained in subdivision (a) of Sections 25602 and 25602.1 pertaining to sales to intoxicated person.

(E) Sections 23393 and 23394 as they pertain to on-premises consumption of alcoholic beverages in an off-sale premises.

(2) The application and acknowledgment shall also include a statement that the clerk has read and understands the summary, a statement that the clerk has never been convicted of violating this division or, if convicted, an explanation of the circumstances of each conviction, and a statement that the application and acknowledgment is executed under penalty of perjury.

(3) The licensee shall keep the executed application and acknowledgment on the premises at all times and available for inspection by the department. A licensee with more than one licensed off-sale premises in the state may comply with this subdivision by maintaining an executed application and acknowledgment at a designated licensed premises, regional office, or headquarters office in the state. An executed application and acknowledgment maintained at the designated locations shall be valid for all licensed off-sale premises owned by the licensee. Any licensee maintaining an application and acknowledgment at a designated site other than the individual licensed off-sale premises shall notify the department in advance and in writing of the site where the application and acknowledgment shall be maintained and available for inspection. A licensee electing to maintain application and acknowledgments at a designated site other than the licensed premises shall maintain at each licensed premises a notice of where the executed application and acknowledgments are located. Any licensee with more than one licensed off-sale premises who elects to maintain the application and acknowledgments at a designated site other than each licensed premises shall provide the department, upon written demand, a copy of any employee's executed application and acknowledgment within 10 business days. A violation of this subdivision by a licensee constitutes grounds for discipline by the department.

(b) On and after January 1, 1992, the licensee shall post a notice which contains and describes, in concise terms, prohibited sales of alcoholic beverages, a statement that the off-sale seller will refuse to make a sale if the seller reasonably suspects that the Alcoholic Beverage Control Act may be violated, and a statement that a minor who purchases or attempts to purchase alcoholic beverages is subject to suspension or delay in the issuance of his or her driver's license pursuant to Section 13202.5 of the Vehicle Code. The notice shall be

posted at an entrance or at a point of sale in the licensed premises or in any other location that is visible to purchasers of alcoholic beverages and to the off-sale seller.

(c) As used in this section:

(1) "Off-sale seller" means any person holding a retail off-sale license issued by the department and any person employed by that licensee who in the course of that employment sells alcoholic beverages.

(2) "Clerk" means an off-sale seller who is not a licensee.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 727

An act to amend Sections 3068 and 3068.1 of the Civil Code, and to amend Section 10652.5 of the Vehicle Code, relating to vehicles.

[Approved by Governor October 7, 1991 Filed with Secretary of State October 9, 1991]

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

SECTION 1. Section 3068 of the Civil Code is amended to read:

3068. (a) Every person has a lien dependent upon possession for the compensation to which the person is legally entitled for making repairs or performing labor upon, and furnishing supplies or materials for, and for the storage, repair, or safekeeping of, and for the rental of parking space for, any vehicle of a type subject to registration under the Vehicle Code, subject to the limitations set forth in this chapter. The lien shall be deemed to arise at the time a written statement of charges for completed work or services is presented to the registered owner.

(b) (1) Any lien under this section which arises because work or services have been performed on a vehicle with the consent of the registered owner shall be extinguished and no lien sale shall be conducted unless either of the following occurs:

(A) The lienholder applies for an authorization to conduct a lien sale within 30 days after the lien has arisen.

(B) An action in court is filed within 30 days after the lien has arisen.

(2) A person whose lien for work or services on a vehicle has been extinguished shall turn over possession of the vehicle, at the place where the work or services were performed, to the legal owner or the lessor upon demand of the legal owner or lessor, and upon tender by the legal owner or lessor, by cashier's check or in cash, of only the amount for storage, safekeeping, or parking space rental for the vehicle to which the person is entitled by subdivision (c).

(3) Any lien under this section which arises because work or services have been performed on a vehicle with the consent of the registered owner shall be extinguished, and no lien sale shall be conducted, if the lienholder, after written demand made by either personal service or certified mail with return receipt requested by the legal owner or the lessor to inspect the vehicle, fails to permit that inspection by the legal owner or lessor, or his or her agent, within a period of time not sooner than 24 hours nor later than 72 hours after the receipt of that written demand, during the normal business hours of the lienholder.

(c) The lienholder shall not charge the legal owner or lessor any amount for release of the vehicle in excess of the amounts authorized by this subdivision.

(1) That portion of the lien in excess of seven hundred fifty dollars ($750) for any work or services, or that amount in excess of four hundred dollars ($400) for any storage, safekeeping, or rental of parking space or, if an application for an authorization to conduct a lien sale has been filed pursuant to Section 3071 within 30 days after the commencement of the storage or safekeeping, in excess of five hundred dollars ($500) for any storage or safekeeping, rendered or performed at the request of any person other than the legal owner or lessor, is invalid, unless prior to commencing any work, services, storage, safekeeping, or rental of parking space, the person claiming the lien gives actual notice in writing either by personal service or by registered letter addressed to the legal owner named in the registration certificate, and the written consent of that legal owner is obtained before any work, services, storage, safekeeping, or rental of parking space are performed.

(2) If any portion of a lien includes charges for the care, storage, or safekeeping of, or for the rental of parking space for, a vehicle for a period in excess of 60 days, the portion of the lien which accrued after the expiration of that period is invalid unless Sections 10650 and 10652 of the Vehicle Code have been complied with by the holder of the lien.

(3) The charge for the care, storage, or safekeeping of a vehicle which may be charged to the legal owner or lessor shall not exceed that for one day of storage if, 24 hours or less after the vehicle is placed in storage, a request is made for the release of the vehicle. If the request is made more than 24 hours after the vehicle is placed in storage, charges may be imposed on a full, calendar-day basis for each day, or part thereof, that the vehicle is in storage.

(d) In any action brought by or on behalf of the legal owner or

lessor to recover a vehicle alleged to be wrongfully withheld by the person claiming a lien pursuant to this section, the prevailing party shall be entitled to reasonable attorney's fees and costs, not to exceed one thousand seven hundred fifty dollars ($1,750).

SEC. 2. Section 3068.1 of the Civil Code is amended to read:

3068.1. (a) Every person has a lien dependent upon possession for the compensation to which the person is legally entitled for towing or storage of any vehicle subject to registration which has been authorized to be removed by a public agency. The lien is deemed to arise on the date of possession of the vehicle. Possession is deemed to arise when the vehicle is removed and is in transit. A person seeking to enforce a lien for the storage and safekeeping of a vehicle shall impose no charge exceeding that for one day of storage if, 24 hours or less after the vehicle is placed in storage, a request is made for the release of the vehicle. If the request is made more than 24 hours after the vehicle is placed in storage, charges may be imposed on a full, calendar-day basis for each day, or part thereof, that the vehicle is in storage.

(b) If the vehicle has been determined to have a value of over three hundred dollars ($300) pursuant to Section 22670 of the Vehicle Code, but not exceeding one thousand dollars ($1,000), the lien shall be satisfied pursuant to Section 3072. Lien-sale proceedings pursuant to this chapter shall commence within 15 days of the date the lien arises. No storage shall accrue beyond the 15-day period unless lien-sale proceedings have commenced.

(c) If the vehicle has been determined to have a value exceeding one thousand dollars ($1,000) pursuant to Section 22670 of the Vehicle Code, the lien shall be satisfied pursuant to Section 3071. The storage lien may be for a period not exceeding 60 days or, if an application for an authorization to conduct a lien-sale has been filed pursuant to Section 3071 within 30 days after the lien arises, a period not exceeding 120 days.

SEC. 3. Section 10652.5 of the Vehicle Code is amended to read:

10652.5. (a) Whenever the name and address of the legal owner of a motor vehicle is known, or may be ascertained from the registration records in the vehicle or from the records of the Department of Motor Vehicles, no fee or service charge may be imposed upon the legal owner for the parking and storage of the motor vehicle for the period commencing with the 16th day of possession and continuing until written notice by certified mail with return receipt requested is sent to the legal owner by the person in possession of the motor vehicle.

(b) The costs of notifying the legal owner may be charged as part of the storage fee when the motor vehicle has been stored for an indefinite period of time and notice is given no sooner than the third day of possession. This subdivision also applies if the legal owner refuses to claim possession of the motor vehicle.

(c) In any action brought by, or on behalf of, a legal owner of a motor vehicle to which subdivision (a) applies, to recover a motor

vehicle alleged to be withheld by the person in possession of the motor vehicle by demanding storage fees or charges for any number of days in excess of that permitted pursuant to subdivision (a), the prevailing party shall be entitled to reasonable attorney's fees, not to exceed one thousand seven hundred fifty dollars ($1,750). The recovery of those fees is in addition to any other right, remedy, or cause of action of that party.

(d) This section is not applicable to any motor vehicle stored by a levying officer acting under the authority of judicial process.

CHAPTER 728

An act to amend Section 1250.8 of the Health and Safety Code, relating to general acute care hospitals.

[Approved by Governor October 7, 1991 Filed with Secretary of State October 9, 1991.]

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

SECTION 1. Section 1250.8 of the Health and Safety Code is amended to read:

1250.8. (a) Notwithstanding subdivision (a) of Section 437.10, the state department, upon application of a general acute care hospital which meets all the criteria of subdivision (b), and other applicable requirements of licensure, shall issue a single consolidated license to a general acute care hospital which includes more than one physical plant maintained and operated on separate premises or which has multiple licenses for a single health facility on the same premises. A single consolidated license shall not be issued where the separate freestanding physical plant is a skilled nursing facility or an intermediate care facility, whether or not the location of the skilled nursing facility or intermediate care facility is contiguous to the general acute care hospital unless the hospital is exempt from the requirements of subdivision (b) of Section 1254, or the facility is part of the physical structure licensed to provide acute care.

(b) The issuance of a single consolidated license shall be based on the following criteria:

(1) There is a single governing body for all of the facilities maintained and operated by the licensee.

(2) There is a single administration for all of the facilities maintained and operated by the licensee.

(3) There is a single medical staff for all of the facilities maintained and operated by the licensee, with a single set of bylaws, rules, and regulations, which prescribe a single committee structure.

(4) Except as provided otherwise in this paragraph, the physical plants maintained and operated by the licensee which are to be covered by the single consolidated license are located not more than

15 miles apart. The director may issue a single consolidated license to a general acute care hospital which maintains and operates two or more physical plants which are located beyond 15 miles if all of the following exist:

(A) Either (i) one or more physical plants are located in a rural area, as defined by regulations of the director; or (ii) the physical plants are located beyond 15 miles from the general acute care hospital which obtains the single consolidated license and provide outpatient services as defined by the department, and do not provide inpatient services.

(B) The director finds, after consultation with the Director of the Office of Statewide Health Planning and Development, that the issuance of the single consolidated license for the general acute care hospital would not significantly impair the operation of Part 1.5 (commencing with Section 437) of Division 1.

(C) The director finds that the licensee can comply with the requirements of licensure and maintain the provision of quality care, and adequate administrative and professional supervision.

(D) The physical plants satisfy the criteria of subdivision (a) and paragraphs (1), (2), and (3).

(E) The physical plants of the licensee operate in full compliance with subdivision (f) of Section 1275.

(c) In issuing the single consolidated license, the state department shall specify the location of each supplemental service and the location of the number and category of beds provided by the licensee. The single consolidated license shall be renewed annually.

(d) To the extent required by Part 1.5 (commencing with Section 437) of Division 1, a general acute care hospital which has been issued a single consolidated license:

(1) Shall not transfer from one facility to another a special service described in Section 1255 without first obtaining a certificate of need.

(2) Shall not transfer, in whole or in part, from one facility to another, a supplemental service, as defined in regulations of the director pursuant to this chapter, without first obtaining a certificate of need, unless the licensee, 30 days prior to the relocation, notifies the Office of Statewide Health Planning and Development, the applicable health systems agency, and the state department of the licensee's intent to relocate the supplemental service, and includes with this notice a cost estimate, certified by a person qualified by experience or training to render the estimates, which estimates that the cost of the transfer will not exceed the capital expenditure threshold established by the Office of Statewide Health Planning and Development pursuant to Section 437.10.

(3) Shall not transfer beds from one facility to another facility, without first obtaining a certificate of need unless, 30 days prior to the relocation, the licensee notifies the Office of Statewide Health Planning and Development, the applicable health systems agency, and the state department of the licensee's intent to relocate health facility beds, and includes with this notice both of the following:

(A) A cost estimate, certified by a person qualified by experience or training to render the estimates, which estimates that the cost of the relocation will not exceed the capital expenditure threshold established by the Office of Statewide Health Planning and Development pursuant to Section 437.10.

(B) The identification of the number, classification, and location of the health facility beds in the transferor facility and the proposed number, classification, and location of the health facility beds in the transferee facility.

Except as otherwise permitted in Part 1.5 (commencing with Section 437) of Division 1, or as authorized in an approved certificate of need pursuant to that part, health facility beds transferred pursuant to this section shall be used in the transferee facility in the same bed classification as defined in Section 1250.1, as the beds were classified in the transferor facility.

Health facility beds transferred pursuant to this section shall not be transferred back to the transferor facility for two years from the date of the transfer, regardless of cost, without first obtaining a certificate of need pursuant to Part 1.5 (commencing with Section 437) of Division 1.

(e) All transfers pursuant to subdivision (d) shall satisfy all applicable requirements of licensure and shall be subject to the written approval, if required, of the state department. The state department may adopt regulations which are necessary to implement the provisions of this section. These regulations may include a requirement that each facility of a health facility subject to a single consolidated license have an onsite full-time or part-time administrator.

(f) As used in this section, "facility" means any physical plant operated or maintained by a health facility subject to a single, consolidated license issued pursuant to this section.

(g) For purposes of selective provider contracts negotiated under the Medi-Cal program, the treatment of a health facility with a single consolidated license issued pursuant to this section shall be subject to negotiation between the health facility and the California Medical Assistance Commission. A general acute care hospital which is issued a single consolidated license pursuant to this section may, at its option, receive from the state department a single Medi-Cal program provider number or separate Medi-Cal program provider numbers for one or more of the facilities subject to the single consolidated license. Irrespective of whether the general acute care hospital is issued one or more Medi-Cal provider numbers, the state department may require the hospital to file separate cost reports for each facility pursuant to Section 14170 of the Welfare and Institutions Code.

(h) For purposes of the Annual Report of Hospitals required by regulations adopted by the state department pursuant to this part, the state department and the Office of Statewide Health Planning and Development may require reporting of bed and service

utilization data separately by each facility of a general acute care hospital issued a single consolidated license pursuant to this section.

(i) The amendments made to this section during the 1985–86 Regular Session of the California Legislature pertaining to the issuance of a single consolidated license to a general acute care hospital in the case where the separate physical plant is a skilled nursing facility or intermediate care facility shall not apply to the following facilities:

(1) Any facility which obtained a certificate of need after August 1, 1984, and prior to February 14, 1985, as described in this subdivision. The certificate of need shall be for the construction of a skilled nursing facility or intermediate care facility which is the same facility for which the hospital applies for a single consolidated license, pursuant to subdivision (a).

(2) Any facility for which a single consolidated license has been issued pursuant to subdivision (a), as described in this subdivision, prior to the effective date of the amendments made to this section during the 1985–86 Regular Session of the California Legislature.

Any facility which has been issued a single consolidated license pursuant to subdivision (a), as described in this subdivision, shall be granted renewal licenses based upon the same criteria used for the initial consolidated license.

(j) If the state department issues a single consolidated license pursuant to this section, the state department may take any action authorized by this chapter, including, but not limited to, any action specified in Article 5 (commencing with Section 1294), with respect to any facility, or any service provided in any facility, which is included in the consolidated license.

(k) The eligibility for participation in the Medi-Cal program (Chapter 7 (commencing with Section 14000), Part 3, Division 9, Welfare and Institutions Code) of any facility that is included in a consolidated license issued pursuant to this section, provides outpatient services, and is located more than 15 miles from the health facility issued the consolidated license shall be subject to a determination of eligibility by the state department. This subdivision shall not apply to any facility that is located in a rural area and is included in a consolidated license issued pursuant to subparagraphs (A), (B), and (C) of paragraph (4) of subdivision (b). Regardless of whether a facility has received or not received a determination of eligibility pursuant to this subdivision, this subdivision shall not affect the ability of a licensed professional, providing services covered by the Medi-Cal program to a person eligible for Medi-Cal in a facility subject to a determination of eligibility pursuant to this subdivision, to bill the Medi-Cal program for those services provided in accordance with applicable regulations.

CHAPTER 729

An act to add Chapter 13 (commencing with Section 7120) to Division 7 of Title 1 of the Government Code, to add Section 1373.13 to the Health and Safety Code, and to add Section 10177.9 to the Insurance Code, relating to dentistry.

[Approved by Governor October 7, 1991. Filed with Secretary of State October 9, 1991]

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

SECTION 1. Chapter 13 (commencing with Section 7120) is added to Division 7 of Title 1 of the Government Code, to read:

CHAPTER 13. DENTAL DISCRIMINATION

7120. (a) It is the intent of the Legislature that all persons licensed in this state to engage in the practice of dentistry shall be accorded equal professional status and privileges, without regard to the degree earned.

(b) Notwithstanding any other provision of law, no agency of the state or of any city, county, city and county, district, or other political subdivision of the state shall discriminate, with respect to employment, staff privileges, or the provision of, or contracts for, professional services, against a licensed dentist solely on the basis of the educational degree held by the dentist.

SEC. 2. Section 1373.13 is added to the Health and Safety Code, to read:

1373.13. (a) It is the intent of the Legislature that all persons licensed in this state to engage in the practice of dentistry shall be accorded equal professional status and privileges, without regard to the degree earned.

(b) Notwithstanding any other provision of law, no health care service plan shall discriminate, with respect to the provision of, or contracts for, professional services, against a licensed dentist solely on the basis of the educational degree held by the dentist.

SEC. 3. Section 10177.9 is added to the Insurance Code, to read:

10177.9. (a) It is the intent of the Legislature that all persons licensed in this state to engage in the practice of dentistry shall be accorded equal professional status and privileges, without regard to the degree earned.

(b) Notwithstanding any other provision of law, no nonprofit hospital service plan or self-insured employee welfare benefit plan shall discriminate, with respect to employment, staff privileges, or the provision of, or contracts for, professional services, against a licensed dentist solely on the basis of the educational degree held by the dentist.

SEC. 4. No reimbursement is required by this act pursuant to

Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 730

An act to amend Section 65583 of the Government Code, relating to housing.

[Approved by Governor October 7, 1991. Filed with Secretary of State October 9, 1991.]

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

SECTION 1. Section 65583 of the Government Code is amended to read:

65583. The housing element shall consist of an identification and analysis of existing and projected housing needs and a statement of goals, policies, quantified objectives, and scheduled programs for the preservation, improvement, and development of housing. The housing element shall identify adequate sites for housing, including rental housing, factory-built housing, and mobilehomes, and shall make adequate provision for the existing and projected needs of all economic segments of the community. The element shall contain all of the following:

(a) An assessment of housing needs and an inventory of resources and constraints relevant to the meeting of these needs. The assessment and inventory shall include the following:

(1) Analysis of population and employment trends and documentation of projections and a quantification of the locality's existing and projected housing needs for all income levels. These existing and projected needs shall include the locality's share of the regional housing need in accordance with Section 65584.

(2) Analysis and documentation of household characteristics, including level of payment compared to ability to pay, housing characteristics, including overcrowding, and housing stock condition.

(3) An inventory of land suitable for residential development, including vacant sites and sites having potential for redevelopment, and an analysis of the relationship of zoning and public facilities and services to these sites.

(4) Analysis of potential and actual governmental constraints

upon the maintenance, improvement, or development of housing for all income levels, including land use controls, building codes and their enforcement, site improvements, fees and other exactions required of developers, and local processing and permit procedures.

(5) Analysis of potential and actual nongovernmental constraints upon the maintenance, improvement, or development of housing for all income levels, including the availability of financing, the price of land, and the cost of construction.

(6) Analysis of any special housing needs, such as those of the handicapped, elderly, large families, farmworkers, families with female heads of households, and families and persons in need of emergency shelter.

(7) Analysis of opportunities for energy conservation with respect to residential development.

(8) An analysis of existing assisted housing developments that are eligible to change to non-low-income housing uses during the next 10 years due to termination of subsidy contracts, mortgage prepayment, or expiration of use restrictions. "Assisted housing developments," for the purpose of this section, shall mean multifamily rental housing that receives governmental assistance under federal programs listed in subdivision (a) of Section 65863.10, state and local multifamily revenue bond programs, local redevelopment programs, the federal Community Development Block Grant Program, or local in-lieu fees. "Assisted housing developments" shall also include multifamily rental units that were developed pursuant to a local inclusionary housing program or used to qualify for a density bonus pursuant to Section 65916.

(A) The analysis shall include a listing of each development by project name and address, the type of governmental assistance received, the earliest possible date of change from low-income use and the total number of elderly and nonelderly units that could be lost from the locality's low-income housing stock in each year during the 10-year period. For purposes of state and federally funded projects, the analysis required by this subparagraph need only contain information available on a statewide basis.

(B) The analysis shall estimate the total cost of producing new rental housing that is comparable in size and rent levels, to replace the units that could change from low-income use, and an estimated cost of preserving the assisted housing developments. This cost analysis for replacement housing may be done aggregately for each five-year period and does not have to contain a project by project cost estimate.

(C) The analysis shall identify public and private nonprofit corporations known to the local government which have legal and managerial capacity to acquire and manage these housing developments.

(D) The analysis shall identify and consider the use of all federal, state, and local financing and subsidy programs which can be used to preserve, for lower income households, the assisted housing

developments, identified in this paragraph, including, but not limited to, federal Community Development Block Grant Program funds, tax increment funds received by a redevelopment agency of the community, and administrative fees received by a housing authority operating within the community. In considering the use of these financing and subsidy programs, the analysis shall identify the amounts of funds under each available program which have not been legally obligated for other purposes and which could be available for use in preserving assisted housing developments.

(b) A statement of the community's goals, quantified objectives, and policies relative to the maintenance, preservation, improvement, and development of housing.

It is recognized that the total housing needs identified pursuant to subdivision (a) may exceed available resources and the community's ability to satisfy this need within the content of the general plan requirements outlined in Article 5 (commencing with Section 65300). Under these circumstances, the quantified objectives need not be identical to the identified existing housing needs, but should establish the maximum number of housing units that can be constructed, rehabilitated, and conserved over a five-year time frame.

(c) A program which sets forth a five-year schedule of actions the local government is undertaking or intends to undertake to implement the policies and achieve the goals and objectives of the housing element through the administration of land use and development controls, provision of regulatory concessions and incentives, and the utilization of appropriate federal and state financing and subsidy programs when available and the utilization of moneys in a Low and Moderate Income Housing Fund of an agency if the locality has established a redevelopment project area pursuant to the Community Redevelopment Law (Division 24 (commencing with Section 33000) of the Health and Safety Code). In order to make adequate provision for the housing needs of all economic segments of the community, the program shall do all of the following:

(1) Identify adequate sites which will be made available through appropriate zoning and development standards and with public services and facilities needed to facilitate and encourage the development of a variety of types of housing for all income levels, including rental housing, factory-built housing, mobilehomes, emergency shelters and transitional housing in order to meet the community's housing goals as identified in subdivision (b).

(2) Assist in the development of adequate housing to meet the needs of low- and moderate-income households.

(3) Address and, where appropriate and legally possible, remove governmental constraints to the maintenance, improvement, and development of housing.

(4) Conserve and improve the condition of the existing affordable housing stock, which may include addressing ways to mitigate the loss of dwelling units demolished by public or private action.

(5) Promote housing opportunities for all persons regardless of race, religion, sex, marital status, ancestry, national origin, or color.

(6) (A) Preserve for lower income households the assisted housing developments identified pursuant to paragraph (8) of subdivision (a). The program for preservation of the assisted housing developments shall utilize, to the extent necessary, all available federal, state, and local financing and subsidy programs identified in paragraph (8) of subdivision (a), except where a community has other urgent needs for which alternative funding sources are not available. The program may include strategies that involve local regulation and technical assistance.

(B) The program shall include an identification of the agencies and officials responsible for the implementation of the various actions and the means by which consistency will be achieved with other general plan elements and community goals. The local government shall make a diligent effort to achieve public participation of all economic segments of the community in the development of the housing element, and the program shall describe this effort.

(d) The analysis and program for preserving assisted housing developments required by the amendments to this section enacted by the Statutes of 1989 shall be adopted as an amendment to the housing element by January 1, 1992.

(e) Failure of the department to review and report its findings pursuant to Section 65585 to the local government between January 1, 1992, and the next periodic review and revision required by Section 65588, concerning the housing element amendment required by the amendments to this section by the Statutes of 1989, shall not be used as a basis for allocation or denial of any housing assistance administered pursuant to Part 2 (commencing with Section 50400) of Division 31 of the Health and Safety Code.

CHAPTER 731

An act to amend Sections 25915.2 and 25915.5 of the Health and Safety Code, relating to asbestos.

[Approved by Governor October 7, 1991. Filed with Secretary of State October 9, 1991]

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

SECTION 1. Section 25915.2 of the Health and Safety Code is amended to read:

25915.2. (a) Notice provided pursuant to this chapter shall be provided in writing to each individual employee, and shall be mailed to other owners designated to receive the notice pursuant to subdivision (a) of Section 25915.5, within 15 days of the first receipt

by the owner of information identifying the presence or location of asbestos-containing construction materials in the building. This notice shall be provided annually thereafter. In addition, if new information regarding those items specified in paragraphs (1) to (5), inclusive, of subdivision (a) of Section 25915 has been obtained within 90 days after the notice required by this subdivision is provided or any subsequent 90-day period, then a supplemental notice shall be provided within 15 days of the close of that 90-day period.

(b) Notice provided pursuant to this chapter shall be provided to new employees within 15 _____ days of commencement of work in the building.

(c) Notice provided pursuant to this chapter shall be mailed to any new owner designated to receive the notice pursuant to subdivision (a) of Section 25915.5 within 15 days of the effective date of the agreement under which a person becomes a new owner.

(d) Subdivisions (a) and (c) shall not be construed to require owners of a building or part of a building within a residential common interest development to mail written notification to other owners of a building or part of a building within the residential common interest development, if all the following conditions are met:

(1) The association conspicuously posts, in each building or part of a building, known to contain asbestos-containing materials, a large sign in a prominent location that fully informs persons entering each building or part of a building within the common interest development that the association knows the building contains asbestos-containing materials.

The sign shall also inform persons of the location where further information, as required by this chapter, is available about the asbestos-containing materials known to be located in the building.

(2) The owners or association disclose, as soon as practicable before the transfer of title of a separate interest in the common interest development, to a transferee the existence of asbestos-containing material in a building or part of a building within the common interest development.

Failure to comply with this section shall not invalidate the transfer of title of real property. This paragraph shall only apply to transfers of title of separate interests in the common interest development of which the owners have knowledge. As used in this section, "association" and "common interest development" are defined in Section 1351 of the Civil Code.

(e) If a person contracting with an owner receives notice pursuant to this chapter, that contractor shall provide a copy of the notice to his or her employees or contractors working within the building.

(f) If the asbestos-containing construction material in the building is limited to an area or areas within the building that meet all the following criteria:

(1) Are unique and physically defined.

(2) Contain asbestos-containing construction materials in structural, mechanical, or building materials which are not replicated throughout the building.

(3) Are not connected to other areas through a common ventilation system; then, an owner required to give notice to his or her employees pursuant to subdivision (a) of Section 25915 or 25915.1 may provide that notice only to the employees working within or entering that area or those areas of the building meeting the conditions above.

(g) If the asbestos-containing construction material in the building is limited to an area or areas within the building that meet all the following criteria:

(1) Are accessed only by building maintenance employees or contractors and are not accessed by tenants or employees in the building, other than on an incidental basis.

(2) Contain asbestos-containing construction materials in structural, mechanical, or building materials which are not replicated in areas of the building which are accessed by tenants and employees.

(3) The owner knows that no asbestos fibers are being released or have the reasonable possibility to be released from the material; then, as to that asbestos-containing construction material, an owner required to give notice to his or her employees pursuant to subdivision (a) of Section 25915 or Section 25915.1 may provide that notice only to its building maintenance employees and contractors who have access to that area or those areas of the building meeting the conditions above.

(h) In those areas of a building where the asbestos-containing construction material is composed only of asbestos fibers which are completely encapsulated, if the owner knows that no asbestos fibers are being released or have the reasonable possibility to be released from that material in its present condition and has no knowledge that other asbestos-containing material is present, then an owner required to give notice pursuant to subdivision (a) of Section 25915 shall provide the information required in paragraph (2) of subdivision (a) of Section 25915 and may substitute the following notice for the requirements of paragraphs (1), (3), (4), and (5) of subdivision (a) of Section 25915:

(1) The existence of, conclusions from, and a description or list of the contents of, that portion of any survey conducted to determine the existence and location of asbestos-containing construction materials within the building that refers to the asbestos materials described in this subdivision, and information describing when and where the results of the survey are available pursuant to Section 25917.

(2) Information to convey that moving, drilling, boring, or otherwise disturbing the asbestos-containing construction material identified may present a health risk and, consequently, should not be

attempted by an unqualified employee. The notice shall identify the appropriate person the employee is required to contact if the condition of the asbestos-containing construction material deteriorates.

SEC. 2. Section 25915.5 of the Health and Safety Code is amended to read:

25915.5. (a) An owner required to give notice to employees pursuant to this chapter, in addition to notifying his or her employees, shall mail, in accordance with this subdivision, a copy of that notice to all other persons who are owners of the building or part of the building, with whom the owner has privity of contract. Receipt of a notice pursuant to this section by an owner, lessee or operator shall constitute knowledge that the building contains asbestos-containing construction materials for purposes of this chapter. Notice to an owner shall be delivered by first-class mail addressed to the person and at the address designated for the receipt of notices under the lease, rental agreement, or contract with the owner.

(b) The delivery of notice under this section or negligent failure to provide that notice shall not constitute a breach of any covenant under the lease or rental agreement, and nothing in this chapter enlarges or diminishes any rights or duties respecting constructive eviction.

(c) No owner who, in good faith, complies with the provisions of this section shall be liable to any other owner for any damages alleged to have resulted from his or her compliance with the provisions of this section.

(d) This section shall not be construed to apply to owners of a building or part of a building within a residential common interest development or association, if the owners comply with the provisions of subdivision (d) of Section 25915.2. For purposes of this section, "association" and "common interest development" are defined in Section 1351 of the Civil Code.

CHAPTER 732

An act to amend Section 713 of the Fish and Game Code, and to amend Section 6 of Chapter 1681 of the Statutes of 1990, relating to the Department of Fish and Game, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 7, 1991 Filed with Secretary of State October 9, 1991]

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

SECTION 1. Section 713 of the Fish and Game Code is amended to read:

713. (a) The changes in the Implicit Price Deflator for State and Local Government Purchases of Goods and Services, as published by the United States Department of Commerce, shall be used as the index to determine an annual rate of increase or decrease in the fees for licenses, stamps, permits, and tags issued by the department, except commercial fishing fees.

(b) The department shall determine the change in the Implicit Price Deflator for State and Local Government Purchases of Goods and Services, as published by the United States Department of Commerce, for the quarter ending March 31 of the current year compared to the quarter ending March 31 of the previous year. The relative amount of the change shall be multiplied by the current fee for each license, stamp, permit, or tag issued by the department. The product shall be rounded to the nearest twenty-five cents ($0.25), and the resulting amount shall be added to the fee for the current year. The resulting amount shall be the fee for the license year beginning on or after January 1 of the next succeeding calendar year for the license, stamp, permit, or tag which is adjusted under this section.

(c) Notwithstanding any other provision of law, the department may recalculate the current fees charged for each license, stamp, permit, or tag issued by the department, except commercial fishing fees, to determine that all appropriate indexing has been included in the current fees. This section shall apply to all licenses, stamps, permits, or tags, except commercial fishing fees, that have not been increased each year since the base year of the 1985–86 fiscal year.

(d) The calculations provided for in this section shall be reported to the Legislature with the Governor's Budget Bill.

(e) The Legislature finds that all revenues generated by fees for licenses, stamps, permits, and tags, computed under this section and used for the purposes for which they were imposed, are not subject to Article XIII B of the California Constitution.

(f) The department shall, at least every five years, analyze all fees for permits, licenses, stamps, and tags issued by it to ensure the appropriate fee amount is charged. Where appropriate, the department shall recommend to the Legislature or the commission that fees established by the commission or the Legislature be adjusted to ensure that those fees are appropriate.

SEC. 2. Section 6 of Chapter 1681 of the Statutes of 1990 is amended to read:

Sec. 6. The sum of six million five hundred fifty-six thousand dollars ($6,556,000) is hereby appropriated, as follows:

(a) Three million five hundred fifty-six thousand dollars ($3,556,000) from the Environmental License Plate Fund to the Fish and Game Preservation Fund to pay for expenditures made pursuant to Item 3600-001-140 of the Budget Act of 1989 (Chapter 93 of the Statutes of 1989).

(b) Three million dollars ($3,000,000) from the Off-Highway Vehicle Fund as a loan to the Fish and Game Preservation Fund to

pay for expenditures made pursuant to Item 3600-001-200 of the Budget Act of 1989 (Chapter 93 of the Statutes of 1989). One million five hundred thousand dollars ($1,500,000) shall be repaid from the Fish and Game Preservation Fund to the Off-Highway Vehicle Fund on or before June 30, 1994, and the remaining balance shall be repaid on or before June 30, 1995. Both amounts shall be repaid with interest at the average rate of interest earned by funds in the Pooled Money Investment Account.

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

In order to ensure that the most current index information from the Implicit Price Deflator for State and Local Government Purchases of Goods and Services is available for use in making authorized adjustments to hunting, fishing, and other related fees during 1991, and to delete the requirement of repayment of a certain loan to the Fish and Game Preservation Fund and extend the time of repayment of another loan to that fund at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 733

An act to amend Sections 55522.5 and 56182.5 of, and to add Sections 55522.6 , 55902.2, 56182.6, and 56632.2 to, the Food and Agricultural Code, relating to farm products.

[Approved by Governor October 7, 1991 Filed with Secretary of State October 9, 1991]

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

SECTION 1. Section 55522.5 of the Food and Agricultural Code is amended to read:

55522.5. (a) It is unlawful for a licensee that has changed its legal entity to do any of the following:

(1) Continue to operate after the change.

(2) Purchase or handle any farm product from a person who had a farm product contract with the former licensee at the time of the change in entity without notifying that person, in writing, of the change in entity.

(3) Use any invoice, contract, or other document associated with the purchase, consignment, or brokerage of any farm product that identifies the former licensee unless the new entity is conspicuously identified on the same invoice, contract, or other document as the entity responsible for the transaction.

(b) The new entity shall notify the director in writing of the change in legal entity within 15 days of the change. The new legal

entity shall, before it conducts business that requires a license, obtain a new license for the business.

(c) Notwithstanding subdivision (b), if a licensee conducts business without a new license as a result of a change of legal entity, it may, within 120 days of the change, upon a showing of no substantial change in financial resources and liabilities, petition the director to grant a new license retroactive to the first day of the month during which the change occurred, and the director may grant the license with retroactive effect upon a finding that doing so would be consistent with the purposes of this chapter. Upon granting the petition, the director shall (1) require the licensee to pay an additional fee in an amount that will cover the expenses of the department in the matter, but not to exceed the fee for a new license, (2) place conditions on the license that are consistent with the purposes of this chapter as the director deems appropriate, and (3) require the licensee to pay an amount, for deposit in the Farm Products Trust Fund, equal to the amount that would have been required had the license been obtained in accordance with subdivision (b).

SEC. 2. Section 55522.6 is added to the Food and Agricultural Code, to read:

55522.6. (a) If the Secretary of State suspends the corporate status of any licensee or if the corporate status is forfeited, the license is revoked by operation of law. The former licensee shall provide written notice of the suspension or forfeiture to the director, and to each person with whom it has a farm product contract, within 15 days of the date the Secretary of State mails the notice of suspension or forfeiture.

(b) The former licensee, may, upon a showing of no substantial change in financial resources and liabilities, and within 90 days of the suspension or forfeiture of corporate status, petition the director for an order to reissue its license formerly held under this chapter. If the corporate status has been reinstated by the Secretary of State, the director may reissue the license if the director finds that doing so would be consistent with the purposes of this chapter. As a condition to reissuing the license, the director may (1) require the former licensee to undertake such financial guarantees, including the filing and maintaining bonds, as the director deems necessary to protect the interests of contracting parties, and (2) impose conditions on the license that are consistent with the purposes of this chapter as the director deems appropriate.

SEC. 3. Section 55902.2 is added to the Food and Agricultural Code, to read:

55902.2. It is a misdemeanor for any person subject to this chapter to pay license fees in an amount less than that amount established under subdivision (b) of Section 55861. Any person who pays less than the amount established under subdivision (b) of Section 55861 for two or more consecutive years shall pay to the director treble the amount of the license fees due pursuant to this chapter.

SEC. 3.5. Section 56182.5 of the Food and Agricultural Code is amended to read:

56182.5. (a) It is unlawful for a licensee that has changed its legal entity to do any of the following:

(1) Continue to operate after the change.

(2) Purchase or handle any farm product from a person who had a farm product contract with the former licensee at the time of the change in entity without notifying that person, in writing, of the change in entity.

(3) Use any invoice, contract, or other document associated with the purchase, consignment, or brokerage of any farm product that identifies the former licensee unless the new entity is conspicuously identified on the same invoice, contract, or other document as the entity responsible for the transaction.

(b) The new entity shall notify the director in writing of the change in legal entity within 15 days of the change. The new legal entity shall, before it conducts business that requires a license, obtain a new license for the business.

(c) Notwithstanding subdivision (b), if a licensee conducts business without a new license as a result of a change of legal entity, it may, within 120 days of the change, upon a showing of no substantial change in financial resources and liabilities, petition the director to grant a new license retroactive to the first day of the month during which the change occurred, and the director may grant the license with retroactive effect upon a finding that doing so would be consistent with the purposes of this chapter. Upon granting the petition, the director shall (1) require the licensee to pay an additional fee in an amount that will cover the expenses of the department in the matter, but not to exceed the fee for a new license, (2) place conditions on the license that are consistent with the purposes of this chapter as the director deems appropriate, and (3) require the licensee to pay an amount, for deposit in the Farm Products Trust Fund, equal to the amount that would have been required had the license been obtained in accordance with subdivision (b).

SEC. 4. Section 56182.6 is added to the Food and Agricultural Code, to read:

56182.6. (a) If the Secretary of State suspends the corporate status of any licensee or if the corporate status is forfeited, the license is revoked by operation of law. The former licensee shall provide written notice of the suspension or forfeiture to the director, and to each person with whom it has a farm product contract, within 15 days of the date the Secretary of State mails the notice of suspension or forfeiture.

(b) The former licensee, may, upon a showing of no substantial change in financial resources and liabilities, and within 90 days of the suspension or forfeiture of corporate status, petition the director for an order to reissue its license formerly held under this chapter. If the corporate status has been reinstated by the Secretary of State, the

director may reissue the license if the director finds that doing so would be consistent with the purposes of this chapter. As a condition to reissuing the license, the director may (1) require the former licensee to undertake such financial guarantees, including the filing and maintaining of bonds, as the director deems necessary to protect the interests of contracting parties and (2) impose other conditions on the license that are consistent with the purposes of this chapter as the director deems appropriate.

SEC. 5. Section 56632.2 is added to the Food and Agricultural Code, to read:

56632.2. It is a misdemeanor for any person subject to this chapter to pay license fees in an amount less than that amount established under subdivision (b) of Section 56571. Any person who pays less than the amount established under subdivision (b) of Section 56571 for two or more consecutive years shall pay to the director treble the amount of the license fees due pursuant to this chapter.

SEC. 6. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 734

An act to amend Section 6624 of the Labor Code, relating to occupational safety and health.

[Approved by Governor October 7, 1991 Filed with Secretary of State October 9, 1991.]

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

SECTION 1. Section 6624 of the Labor Code is amended to read:

6624. A petition for reconsideration is deemed to have been denied by the appeals board unless it is acted upon within 45 days from the date of filing. The appeals board may, upon good cause being shown therefor, extend the time within which it may act upon that petition for not exceeding 15 days.

CHAPTER 735

An act to amend Sections 14040, 14040.5, 14050.1, 14115, and 14123.2 of, and to add Section 14132.18 to, the Welfare and Institutions Code, relating to Medi-Cal.

[Approved by Governor October 7, 1991. Filed with Secretary of State October 9, 1991]

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

SECTION 1. Section 14040 of the Welfare and Institutions Code is amended to read:

14040. (a) Each contract for fiscal intermediary services shall allow, to the extent practicable, providers to utilize electronic means for transmitting claims to the fiscal intermediary contractor. Means of transmission, and the manner and format used, shall be approved by the director. In determining which electronic means are acceptable, the director shall consider magnetic tape, computer-to-computer via telephone, diskettes, and any other methods which may become available through technological advancements.

(b) A provider may assign signature authority for transmission of claims to an authorized representative or billing agent.

(c) The department shall develop reasonable standards for participation by providers or persons who bill on behalf of providers in the use of claim transmission methods utilized pursuant to this section. These standards shall be designed to ensure that participants are able to submit technically complete claims and reduce the potential for fraud and abuse. A "technically complete claim" means any billing request for payment from a provider or the agent of a provider, including an original claim, claim inquiry, or appeal, that is submitted on the correct Medi-Cal claim form or electronic billing format, is fully and accurately completed, and includes all information and documentation required to be submitted on or with the claim pursuant to Medi-Cal billing and documentation requirements.

(d) To the extent required by federal and state law, the fiscal intermediary shall retain claim data submitted by providers pursuant to this section. The department shall, however, return to a health care provider original tapes, diskettes, and any other similar devices which are used by the provider pursuant to this section.

(e) In order to reduce the amount of paperwork or attachments which are required to be completed by a provider submitting a bill for services under this chapter to the fiscal intermediary, the department shall direct the fiscal intermediary to investigate and develop the means to incorporate as much information as possible on the electronic format.

SEC. 2. Section 14040.5 of the Welfare and Institutions Code is

amended to read:

14040.5. (a) Billing intermediaries shall register with the director and shall obtain an identifier code which shall be part of all Medi-Cal claims submitted by any billing intermediary.

(b) Any provider using a billing intermediary to bill the Medi-Cal program shall provide written notification to the director of the name and address of the billing intermediary.

(c) (1) Any Medi-Cal claim submitted by a billing intermediary failing to comply with the requirements of this section shall be subject to denial by the director.

(2) The director may deny, suspend, or withdraw the registration of a billing intermediary based upon failure to comply with this section, or for involvement of a billing intermediary in illegal submission of claims.

(3) The director may immediately withdraw or suspend the registration of a billing intermediary upon the involvement of that billing intermediary in the filing of false or misleading information on claims submitted for services allegedly rendered, or when a billing intermediary has demonstrated a pattern of filing claims which are not technically complete claims as defined in subdivision (c) of Section 14040.

(4) Proceedings for suspension or withdrawal of the registration of a billing intermediary pursuant to this section shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, except that hearings may be conducted by departmental hearing officers appointed by the director. The director may periodically contract with the Office of Administrative Hearings to conduct these hearings.

(5) The director shall notify the billing intermediary 30 days in advance of a proposed suspension and shall allow the billing intermediary to demonstrate why the suspension notice should not be issued.

(6) The director shall notify the billing intermediary of the suspension and the effective date thereof and at the same time shall serve the billing intermediary with the accusation. Upon receipt of a notice of defense by the billing intermediary, the director shall set the matter for hearing within 30 days of the receipt of the notice. The suspension shall remain in effect until the hearing is completed and the director has made a final determination on the merits. The suspension shall, however, be deemed vacated if the director fails to make a final determination on the merits within 60 days of the completion of the original hearing.

(6) This subdivision shall not apply where the suspension of a billing intermediary is based upon the conviction for any crime involving fraud, abuse of the Medi-Cal program, or suspension from the federal Medicare program. In those instances, suspension shall be automatic.

(d) For purposes of this section, a billing intermediary includes

any entity including a partnership, corporation, sole proprietorship, or person which bills Medi-Cal on behalf of a provider pursuant to a contractual relationship with the provider. As used in this section a billing intermediary does not include salaried employees of a provider.

(e) As used in this section "provider" means any individual, partnership, clinic, group, association, corporation, or institution as defined in Section 51051 of Title 22 of the California Administrative Code, and includes any officer, director, agent, or employee thereof.

SEC. 3. Section 14050.1 of the Welfare and Institutions Code is amended to read:

14050.1. For purposes of this chapter, "categorically needy person" means a person whose coverage is mandatory under Title XIX of the Social Security Act including, but not limited to, the individuals covered pursuant to Section 1396a(a)(10)(A)(i) of Title 42 of the United States Code.

SEC. 4. Section 14115 of the Welfare and Institutions Code is amended to read:

14115. (a) Bills for service under this chapter shall be submitted not more than six months after the month in which the service is rendered, and shall be in the form prescribed by the director, except that in the event the patient does not identify himself or herself to the provider as a Medi-Cal beneficiary within four months after the month in which the service was rendered, the provider shall be entitled to submit his or her statement at any time within 60 days after that date certified by the provider as the date the patient was first identified as a Medi-Cal beneficiary. However, the date certified by the provider as the date the patient was first so identified shall not be later than one year after the month in which the service was rendered. Whenever a provider has submitted a claim to a liable third party, the provider shall have one year after the month in which the service is rendered for submission of the bill. Whenever a legal proceeding has been commenced with either an administrative or judicial tribunal concerning a bill for which the provider is attempting to obtain payment from a liable third party, the provider shall have one year in which to submit the bill after the month in which the services have been rendered. A copy of the pleadings shall be conclusively presumed to be sufficient evidence of commencement of a legal proceeding.

(b) Further, the director may, where he or she finds that delay in the submission of bills was caused by circumstances beyond the control of the provider, extend the period for submission of bills for a period not to exceed one year.

(c) (1) Reimbursement for an original claim, submitted for payment between six and 12 months after the month of service, which does not meet any of the exceptions allowing billing after six months as specified in subdivisions (a) and (b), shall be reduced as follows:

(A) The amount otherwise payable by Medi-Cal shall be reduced

by 25 percent for claims submitted during the seventh through the ninth month after the month of service.

(B) The amount otherwise payable by Medi-Cal shall be reduced by 50 percent for claims submitted during the 10th through the 12th month after the month of service.

(2) In no event shall the provider be reimbursed for claims submitted more than one year after the month of service.

(d) For the purposes of this section, identification of a patient as a Medi-Cal beneficiary shall mean presentation to the provider of the patient's Medi-Cal card.

(e) No further followup shall be required, after the provider receives acknowledgment of a claim inquiry from the fiscal intermediary, until the claim is paid or denied, except that this period shall not exceed one year from the date of acknowledgment. Within one year from the date of acknowledgment the next level of appeal shall be utilized by the provider.

SEC. 5. Section 14123.2 of the Welfare and Institutions Code is amended to read:

14123.2. Any provider or person that presents or causes to be presented a claim for services to an officer, employee, or agent of the State of California, or of any department or agency thereof as defined in appropriate state law, that the director determines is for a medical or other item or service that the person knows or has reason to know; (a) was not provided as claimed, or (b) payment for which may not be made under the program in the following instances: (1) when the person or provider has been suspended from participation in the program, or (2) when the department determines that the services or items claimed are substantially in excess of the needs of individuals or are of a quality that fails to meet professionally recognized standards of health care, or (3) when the department determines that a person has demonstrated a pattern of abusive overbilling of the program, or (4) when the department determines that a person has intentionally or negligently made a false statement or representation on any request for payment submitted to the Medi-Cal program; or (c) is submitted in violation of an agreement between the person and the state, shall be subject in addition to any other penalties that may be prescribed by law, to a civil money penalty of not more than three times the amount claimed for each item or service. For continuing intentional violations, a civil money penalty of not more than three times the amount claimed for each item or service may be imposed for each day the violation continues.

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

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

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

SEC. 6. Section 14132.18 is added to the Welfare and Institutions Code, to read:

14132.18. (a) Community supported living arrangement services approved by the United States Department of Health and Human Services in accordance with Section 1396v of Title 42 of the United States Code is a covered benefit under this chapter to the extent that federal financial participation is available for those services and shall be subject to the terms, conditions, and duration of any waiver obtained from the Secretary of the United States Department of Health and Human Services.

(b) (1) The department, in consultation with the State Department of Developmental Services, shall submit an application to the secretary for approval to provide community supported living arrangement services and seek any federal waivers necessary to implement this subdivision.

(2) State matching funds for the federal medicaid funding shall come out of purchase of services funds of the regional centers, established pursuant to Article 1 (commencing with Section 4620) of Chapter 5 of Division 4.5 and it is the intent of the Legislature that no new funds from the General Fund shall be appropriated for this purpose.

(c) The department, in consultation with the State Department of Developmental Services, shall establish and maintain program standards for quality assurance and minimum protection to protect the health, safety, and welfare of individuals receiving community supported living arrangement services and as otherwise necessary to implement this section.

(d) In order to facilitate the design and development of community supported living arrangement services; program regulations implementing, interpreting, or making specific the provisions of subdivision (a) shall not be subject to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. This subdivision shall become inoperative on January 1, 1997.

(e) If the provision of community supported living arrangements as a covered benefit under this chapter receive federal approval, the department shall collect patient-specific cost data and compare the costs of providing community supported living arrangements under this chapter with the costs experienced prior to the provision of community supported living arrangements as a covered benefit under this chapter.

(f) This section shall cease to be operative if the Director of Health Services determines (1) California's application for federal funds under the community supported living arrangements medicaid state plan option is not accepted; (2) California's application for renewal of funding for community supported living arrangements is not accepted during the course of the grant; (3) federal funding for community supported living arrangements ceases to be available; or (4) California determines that it no longer

chooses to participate in the community supported living arrangements medicaid state plan option.

SEC. 7. The Legislature finds and declares that the United States Congress through its amendment of the Social Security Act has encouraged an innovative program of community supported living arrangement services for a limited number of states and a limited number of service providers and beneficiaries. Therefore, in order to facilitate California's success in competing for federal funds and to provide the flexibility to expeditiously develop necessary rules and standards it is the intent of the Legislature to provide statutory authority for the State Department of Health Services and the State Department of Developmental Services to seek and utilize federal medicaid funds and to suspend for a period of five years the necessity of requiring regulations to be subject to the Administrative Procedure Act.

SEC. 8. The Legislature finds and declares that when a billing intermediary under the Medi-Cal program misrepresents the information on a claim for reimbursement for Medi-Cal services or otherwise submits false or fraudulent claims, the State Department of Health Services' only recourse is to discipline the provider of the services. It is the intent of the Legislature, by amending Section 14040.5 of the Welfare and Institutions Code in Section 2 of this act, to remedy this situation by authorizing the Director of Health Services to deny, suspend, or withdraw the registration of a billing intermediary in those circumstances.

CHAPTER 736

An act to add Section 16731.5 to the Government Code, relating to general obligation bonds.

[Approved by Governor October 7, 1991. Filed with Secretary of State October 9, 1991]

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

SECTION 1. Section 16731.5 is added to the Government Code, to read:

16731.5. (a) Notwithstanding any other provision of this chapter, the committee may provide for the issuance of all or part of the bonds authorized to be issued as zero coupon or capital appreciation bonds. The committee shall adopt a resolution finding that issuance of these bonds is necessary and desirable, directing the Treasurer to arrange for preparation of the requisite number of suitable bonds, and specifying other provisions relating to the bonds including the following:

(1) The date, number, denominations, and aggregate par value of the bonds payable at maturity. The aggregate par value may be

represented by bond certificates in denominations as the committee deems appropriate, but not less than one thousand dollars ($1,000).

(2) The dates of maturity and the aggregate amounts of the bonds maturing on each of these dates. Determination of maturity dates and amounts by the committee shall be made upon recommendation of the Treasurer to provide the maximum benefit to potential purchasers and to respond to the expected demand for the bonds. Whenever the committee determines to issue bonds from any authorized bond act as zero coupon or capital appreciation bonds, and to issue bonds from the same authorization at the same time pursuant to Section 16731, the committee may comply with the requirements of subdivision (b) of Section 16731 by taking into account all the bonds of the same authorization being issued at the same time.

(3) The interest rate or rates, and interest payment dates applicable to the bonds. Zero coupon bonds may bear a zero rate of interest, and capital appreciation bonds may bear a stated rate of interest payable only at maturity, compounded at the same rate, which rate or rates may be determined at the time of sale of the bonds. The rate of interest borne by these bonds, or the nominal interest rate taking into account the original issue discount of these bonds, when bearing a zero interest rate, shall not exceed 11 percent per annum.

(4) Any provisions for the redemption of the bonds prior to their stated maturity.

(5) The technical form and language of the bonds.

(6) All other terms and conditions of the bonds and of their execution, issuance, and sale, deemed necessary and appropriate by the committee.

(b) Notwithstanding any other provision of this chapter, when the committee determines to issue bonds as zero coupon or capital appreciation bonds, all of the following shall apply:

(1) The bonds may be sold at negotiated sale at a price below the par value in a manner consistent with paragraph (3) of subdivision (a). If the committee determines to issue other bonds authorized by the same bond act at the same time as zero coupon or capital appreciation bonds are issued, the other bonds may also be sold at negotiated sale with a discount of not more than 3 percent of the par amount thereof.

(2) For purposes of determining the principal amount of bonds of any voted authorization outstanding, in the case of any bonds which are zero coupon or capital appreciation bonds and do not provide for payment of interest on the bond prior to maturity, the principal amount of the bonds shall be the cash price paid by the initial purchasers of the bonds to the state, and deposited in the fund, plus the amount of any costs of issuance of the bonds. Within 30 days of the delivery of any zero coupon or capital appreciation bonds, the Treasurer shall submit to the committee a certificate stating the principal amount of bonds of each issue, calculated as stated in this

subdivision, which have been sold, and the certification shall be conclusive for all purposes under this chapter and the constitution.

(3) The committee may arrange to utilize the services of investment banks, commercial banks, savings and loans or other financial institutions, or other advisers as it may deem appropriate to publicize and assist in the marketing and sale of zero coupon or capital appreciation bonds.

(c) When zero coupon or capital appreciation bonds are issued pursuant to this section, the debt service payments on the bonds should continue to be managed in a manner consistent with the state's policy of retiring general obligation bonds in an orderly efficient manner. It is the expectation of the Legislature that the authority provided by this section will not be used to defer debt service payments as a means of preserving General Fund moneys for short-term purposes.

CHAPTER 737

An act to add Chapter 6.5 (commencing with Section 5501) to Part 1 of Division 4 of the Food and Agricultural Code, relating to economic poisons.

[Approved by Governor October 8, 1991. Filed with Secretary of State October 9, 1991]

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

SECTION 1. Chapter 6.5 (commencing with Section 5501) is added to Part 1 of Division 4 of the Food and Agricultural Code, to read:

CHAPTER 6.5. ROADSIDE VEGETATION CONTROL

5501. This chapter shall be known and may be cited as the Property Owners' Roadside Vegetation Control Information Act of 1991.

5502. The following definitions shall govern the construction of this chapter:

(a) "Agency" means an agency of state government that has responsibility for roadside vegetation control operations on, or along, roadways.

(b) "Economic poison" has the same meaning as defined by Section 12753.

(c) "Property owner" means an owner, lessee, or tenant of real property that is adjacent or contiguous to a roadway over which an agency has responsibility for roadside vegetation control.

(d) "Roadside" means the land adjacent to, or dividing the lanes of traffic of, a roadway.

(e) "Roadway" means any highway, superhighway, expressway, street, road, lane, or other public thoroughfare.

5503. The Legislature hereby finds and declares all of the following:

(a) The unannounced and poorly coordinated use of economic poisons to control roadside vegetation has too frequently resulted in damage to adjacent or contiguous private property. In some instances, this activity has caused growers to needlessly suffer economic loss or damage to their crops.

(b) Property owners have a right to know beforehand the manner in which state government intends to control the roadside vegetation adjacent or contiguous to their property.

(c) It is in the public interest to establish a voluntary mechanism by which private property owners may meet and confer with representatives of state government to enter into mutually acceptable voluntary agreements to promote coordinated programs for roadside vegetation control and, thereby, minimize damage to adjacent and contiguous property.

(d) Mutually acceptable agreements may include, but are not limited to, provisions whereby the property owner assumes responsibility for roadside vegetation control in a manner which is at least as effective as that proposed by state government, the use of mechanical means of vegetation control, the use of a combination of economic poison and mechanical means of control, a delay in the application of an economic poison, or the use of different economic poisons.

(e) Private property owners and representatives of state government are encouraged to voluntarily develop creative and innovative means to accomplish the goals and objectives of this chapter.

5504. An agency shall promptly provide any or all of the following information to a property owner who so requests:

(a) The date on which the agency is scheduled, or planning, to conduct roadside vegetation control and the method or methods the agency is planning to use in the roadside vegetation control operation on, or along, the part of the roadway that is adjacent or contiguous to his or her property.

(b) The frequency with which the agency is scheduled, or is planning, to conduct a roadside vegetation control operation on, or along, the part of the roadway adjacent or contiguous to his or her property.

(c) Any other relevant information in the possession of the agency that may be of interest to the property owner of the property adjacent or contiguous to the roadside where the vegetation control operation is to be conducted.

5505. The agency shall not conduct a roadside vegetation control operation on that portion of the roadway for which a property owner has made a request for information pursuant to Section 5504, until both of the conditions set forth in subdivisions (a) and (b) have been

met or unless subdivision (c) applies:

(a) The agency provides the property owner the requested information pursuant to Section 5504.

(b) The property owner did not request a meeting with the representatives of the agency within 30 days after he or she received the information or, if so requested, the meeting is held in accordance with Section 5506.

(c) The agency provided the property owner the requested information pursuant to Section 5504, the property owner requested a meeting to be held in accordance with Section 5506, and the agency, having made a good faith effort to accommodate the property owner in scheduling and conducting a meeting, is unable to reach an agreement with the property owner on a reasonable meeting time and place within 30 days of the initial request for a meeting.

5506. (a) Within 30 days of receipt of the information required to be provided pursuant to Section 5504, the property owner may request a meeting with representatives of the agency to discuss the agency's proposed schedule for, or method of, roadside vegetation control, or both the schedule and method to be used on, or along, the roadway adjacent or contiguous to his or her property.

(b) Upon receipt of a request for a meeting pursuant to this section, the agency shall meet with the property owner at a mutually agreeable time and location.

(c) The purpose of the meeting shall be to develop and adopt (1) a schedule for the roadside vegetation control operation and (2) a method of roadside vegetation control that eliminates, or minimizes, damage to the property owner's property while preserving the ability of the agency to conduct an effective roadside vegetation control program.

(d) The agency shall consider and, if the facts presented to the agency warrant further action in order to carry out the objectives of this chapter, do any or all of the following:

(1) Revise the schedule for the roadside vegetation control operation.

(2) Revise the proposed methods of roadside vegetation control, including, but not limited to, the use of economic poison or mechanical methods of control, or a combination thereof.

(3) Use different economic poisons, or different combinations or concentrations of economic poisons.

(4) Enter into an agreement with the property owner whereby the property owner agrees to assume the responsibility, in whole or in part, of roadside vegetation control by any lawful method of control, if the agency determines that the property owner's method is as effective as the method proposed to be used by the agency.

(e) The objective of this section is to establish a procedure for property owners and representatives of agencies to meet and confer in order to develop and adopt mutually acceptable times for, and methods of, well-coordinated and effective roadside vegetation

control operations and, thereby, minimize damage to adjacent or contiguous property.

(f) If agreement cannot be reached between the property owner and the agency, the agency shall maintain responsibility for decisions affecting roadside vegetation control in the disputed area.

5507. If the property owner does not carry out the terms of any agreement entered into pursuant to paragraph (4) of subdivision (d) of Section 5506, as determined by the agency, the agency may immediately conduct the roadside vegetation control in accordance with the agency's schedule and method of roadside vegetation control.

5508. This chapter shall be liberally construed to accomplish its purposes and objectives.

5509. Any property owner affected by the decision of the agency made pursuant to this chapter may bring an action for writ of mandamus challenging the decision pursuant to Section 1085 of the Code of Civil Procedure. A property owner may also request a court to issue an injunction or order any other action to restrain any violation of this chapter.

CHAPTER 738

An act to amend Section 66442 of, and to repeal and add Section 66450 of, the Government Code, relating to subdivisions.

[Approved by Governor October 8, 1991. Filed with Secretary of State October 9, 1991.]

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

SECTION 1. Section 66442 of the Government Code is amended to read:

66442. (a) If a subdivision for which a final map is required lies within an unincorporated area, a certificate or statement by the county surveyor is required. If a subdivision lies within a city, a certificate or statement by the city engineer or city surveyor is required. The appropriate official shall sign, date, and, below or immediately adjacent to the signature, indicate his or her registration or license number with expiration date and state that:

(1) He or she has examined the map.

(2) The subdivision as shown is substantially the same as it appeared on the tentative map, and any approved alterations thereof.

(3) All provisions of this chapter and of any local ordinances applicable at the time of approval of the tentative map have been complied with.

(4) He or she is satisfied that the map is technically correct.

(b) City or county engineers registered as civil engineers after

January 1, 1982, shall only be qualified to certify the statements of paragraphs (1), (2), and (3) of subdivision (a). The statement specified in paragraph (4) shall only be certified by a person authorized to practice land surveying pursuant to the Professional Land Surveyors' Act (Chapter 15 (commencing with Section 8700) of Division 3 of the Business and Professions Code) or a person registered as a civil engineer prior to January 1, 1982, pursuant to the Professional Engineers' Act (Chapter 7 (commencing with Section 6700) of Division 3 of the Business and Professions Code). The county surveyor, the city surveyor, or the city engineer, as the case may be, or other public official or employee qualified and authorized to perform the functions of one of those officials, shall complete and file with his or her legislative body his or her certificate or statement, as required by this section, within 20 days from the time the final map is submitted to him or her by the subdivider for approval.

SEC. 2. Section 66450 of the Government Code is repealed.

SEC. 3. Section 66450 is added to the Government Code, to read:

66450. (a) If a subdivision for which a parcel map is required lies within an unincorporated area, a certificate or statement by the county surveyor is required. If a subdivision lies within a city, a certificate or statement by the city engineer or city surveyor is required. The appropriate official shall sign, date, and, below or immediately adjacent to the signature, indicate his or her registration or license number with expiration date and state that:

(1) He or she examined the map.

(2) The subdivision as shown is substantially the same as it appeared on the tentative map, if required, and any approved alterations thereof.

(3) All provisions of this chapter and of any local ordinances applicable at the time of approval of the tentative map, if required, have been complied with.

(4) He or she is satisfied that the map is technically correct.

(b) City or county engineers registered as civil engineers after January 1, 1982, shall only be qualified to certify the statements of paragraphs (1), (2), and (3) of subdivision (a). The statement specified in paragraph (4) of subdivision (a) shall only be certified by a person authorized to practice land surveying pursuant to the Professional Land Surveyors' Act (Chapter 15 (commencing with Section 8700) of Division 3 of the Business and Professions Code) or a person registered as a civil engineer prior to January 1, 1982, pursuant to the Professional Engineers' Act (Chapter 7 (commencing with Section 6700) of Division 3 of the Business and Professions Code).

(c) The county surveyor, city engineer, or city surveyor, as the case may be, or other public official or employee qualified and authorized to perform the functions of one of those officials, shall complete and file with his or her legislative body his or her certificate or statement, as required by this section, within 20 days from the time the parcel map is submitted to him or her by the subdivider for

approval.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 739

An act to amend Section 1760.6 of, and to add Section 1768.1 to, the Welfare and Institutions Code, relating to juveniles.

[Approved by Governor October 8, 1991. Filed with Secretary of State October 9, 1991.]

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

SECTION 1. Section 1760.6 of the Welfare and Institutions Code is amended to read:

1760.6. (a) The director may require wards of the Youth Authority to perform work necessary and proper to construct, renovate, or maintain facilities of the Youth Authority. For purposes of this section, and notwithstanding Section 10108 of the Public Contract Code, the department may construct, renovate, or maintain facilities of the Youth Authority with hired or staff labor forces, so long as wards of the Youth Authority are utilized as a majority of the labor force and so long as the estimated cost of the project, if contracted, does not exceed two hundred thousand dollars ($200,000); provided, that projects shall not be divided for the purpose of keeping within the two hundred thousand dollar ($200,000) project limitation. The department may provide for the payment of wages to wards of the Youth Authority for work performed pursuant to this section, the sums earned to be paid in reparation, or to the parents or dependents of the ward, or to the ward, in any manner and in any proportions as the department directs.

(b) For minor capital outlay and maintenance projects which, pursuant to this section, the department has elected to accomplish with ward labor, if the department has not completed the project within the year of appropriation, then the amount of the unencumbered balance of the project shall be determined in accordance with Section 14959 of the Government Code, under which an estimate of the amount necessary for the completion of the project, including purchase of materials, hiring of labor and wards, equipment rental, supervision, and any other items, shall be deemed

a valid encumbrance and shall be included with any other valid encumbrances in determining the amount of the unencumbered balance.

(c) For the purposes of this section, at least 90 percent of any nonward day labor utilized by the department in conjunction with ward labor shall be performed by individuals who are represented by a duly authorized employee representative unless individuals with that qualification are not reasonably available.

SEC. 2. Section 1768.1 is added to the Welfare and Institutions Code, to read:

1768.1. No contract shall be executed with an employer that will initiate employment by persons committed to the authority in the same job classification as other employees of the same employer who, at the time of execution of the contract, are on strike, as defined in Section 1132.6 of the Labor Code, or who are then subject to lockout, as defined in Section 1132.8 of the Labor Code. The total daily hours worked by persons committed to the authority and employed in the same job classification as other employees of the same employer who, subsequent to the employer's hiring of persons committed to the authority, go on strike, as defined in Section 1132.6 of the Labor Code, or are subjected to a lockout, as defined in Section 1132.8 of the Labor Code, shall not exceed, for the duration of the strike or lockout, the average daily hours worked for the preceding six months, or, if the authority's contract with the employer has been in operation for less than six months, the average for the period of operation.

CHAPTER 740

An act to amend Section 231 of, and to add Sections 232.5 and 239 to, the Health and Safety Code, relating to health insurance.

[Approved by Governor October 8, 1991. Filed with Secretary of State October 9, 1991.]

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

SECTION 1. Section 231 of the Health and Safety Code is amended to read:

231. As used in this article:

(a) "Catastrophic health insurance" means a supplementary insurance contract that indemnifies a California resident for medical expenses, including at least the costs of the basic health care services that result from an illness, injury, or disease, and that are greater than fifty thousand dollars ($50,000), subject to a lifetime benefit limit of one million dollars ($1,000,000).

(b) "Resident" means any individual who lives in California for at least 90 consecutive days.

(c) "Insurer" as used in this article includes a disability insurer which covers hospital, medical, or surgical expenses, and a nonprofit hospital service plan.

(d) "Basic health care services" includes, but is not limited to, the following:

(1) Inpatient hospital treatment, including room and board, general nursing services, diagnostic tests, supplies, and other medically necessary services.

(2) Outpatient services for surgery, presurgical diagnostic tests, emergency care, and chemotherapy.

(3) Surgery and anesthesia.

(4) Hospital and office visits and consultations.

(5) X-rays and laboratory tests; allergy tests, injections, and sera.

(6) Maternity care for the subscriber or enrolled spouse.

(7) Psychotherapy.

(8) Chemotherapy and radiation therapy.

(9) Physical, speech, occupational and respiratory therapies.

(10) Prescription drugs.

(11) Prostheses and durable medical equipment, such as artificial limbs, hospital beds, and wheelchairs.

(12) Cardiac rehabilitation program.

(13) Local ambulance service.

(14) Alcohol and drug abuse rehabilitation.

(15) Rehabilitative care.

(16) Outpatient skilled nursing care (up to two hours per day for up to 50 days per calendar year).

(17) Home health care and hospice services provided by an approved home health agency or hospice agency.

SEC. 2. Section 232.5 is added to the Health and Safety Code, to read:

232.5. The director may appoint a full-time employee, and other staff as required, to implement this article.

SEC. 3. Section 239 is added to the Health and Safety Code, to read:

239. If studies or research demonstrate that it is in the best interest of the program, the director may adopt regulations setting forth modifications to the coverage provided under the program. No modification shall apply to any coverage provided by a policy or contract issued prior to the operative date of the regulation, except that the modification shall apply to coverage provided after any renewal of the policy or contract occurring after the operative date of the regulation.

CHAPTER 741

An act to add Chapter 4.5 (commencing with Section 99180) to Part 65 of the Education Code, relating to postsecondary education.

[Approved by Governor October 8, 1991 Filed with Secretary of State October 9, 1991]

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

SECTION 1. Chapter 4.5 (commencing with Section 99180) is added to Part 65 of the Education Code, to read:

CHAPTER 4.5. HIGHER EDUCATION ACCOUNTABILITY PROGRAM

99180. (a) It is the intent of the Legislature that demonstrable improvements in student knowledge, capacities, and skills between entrance and graduation be publicly announced and available, and that these improvements be achieved efficiently through the effective use of student and institutional resources of time, effort, and money.

(b) It is further the intent of the Legislature that public and private institutions of higher education express expectations of student performance in a manner that is clear to students.

(c) It is further the intent of the Legislature that existing accountability requirements be strengthened through the elimination of unnecessary and redundant reports submitted by the educational institutions to various state agencies. The elimination of these unnecessary reports will save money and allow the institutions to focus their efforts on only the most important reporting requirements.

99181. The University of California, the California State University, and the California Community Colleges shall each prepare a list of reports required to be submitted on a regular basis to the Legislature and to state agencies. The purpose of each report shall be identified, as well as the costs associated with production of the report. Prior to March 1, 1992, this information shall be submitted to the education policy and fiscal committees of the Legislature, the Department of Finance, and the California Postsecondary Education Commission. The California Postsecondary Education Commission shall review and comment on the utility of the required reports identified by the educational institutions, and offer recommendations for consolidating or eliminating existing reporting requirements in order to reduce operating expenses and streamline reporting provisions.

99182. (a) On or before November 15, 1994, and each November 15 thereafter, the California Postsecondary Education Commission shall submit a higher education report to the Legislature and the Governor which provides information to the citizens of the state on

the significant indicators of performance of the public colleges and universities. This annual report shall be presented in a readable format. Prior to publication, the commission shall distribute a draft of the report to all public colleges and universities for comment.

(b) The commission, in cooperation with the public colleges and universities, shall develop and adopt a format for the higher education report specified in subdivision (a) and the information to be included. The following types of information shall be considered for inclusion in the report with respect to public universities:

(1) The retention rate of students.

(2) The proportion of lower division instructional courses taught by tenured and tenure-track faculty.

(3) The minimum number of hours per semester required to be spent by faculty in student advisement.

(4) The proportion of graduate and undergraduate students participating in sponsored research programs.

(5) Placement data on graduates.

(6) The proportional changes in the participation and graduation rates of students from groups historically underrepresented in higher education.

(7) The proportion of graduate students who received undergraduate degrees (A) at the institution, (B) within the state, (C) within the United States, and (D) from other nations.

(8) The number of full-time students who have transferred from a California community college.

(9) Demonstrable evidence of improvements in student knowledge, capacities, and skills between entrance and graduation, where this evidence exists.

(10) Results of surveys of students regarding student attitudes and experiences, where these surveys exist.

(c) The following types of information shall be considered for inclusion in the report with respect to public community colleges:

(1) The retention rate of students.

(2) The proportion of remedial or developmental education courses taught by full-time faculty.

(3) The number of hours per student per semester spent by faculty in student advisement.

(4) Placement data on graduates.

(5) The proportional change in the participation and graduation rate of students from groups historically underrepresented in higher education.

(6) The number of students who have transferred into a four-year, postsecondary institution, by ethnicity and gender.

(7) Demonstrable evidence of improvements in student knowledge, capacities, and skills between entrance and graduation, where this evidence exists.

(8) Results of surveys of students regarding student attitudes and experiences, where these surveys exist.

SEC. 2. Notwithstanding Section 17610 of the Government Code,

if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 742

An act to amend Section 10232 of the Business and Professions Code, relating to real estate.

[Approved by Governor October 8, 1991. Filed with Secretary of State October 9, 1991.]

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

SECTION 1. Section 10232 of the Business and Professions Code is amended to read:

10232. (a) Except as otherwise expressly provided, the provisions of Sections 10232.1, 10232.2, 10232.25, 10232.4, and 10232.5 are applicable to every real estate broker who intends or reasonably expects in any successive 12 months to do any of the following:

(1) Negotiate any combination of 20 or more of the following transactions pursuant to subdivision (d) or (e) of Section 10131 or Section 10131.1 in an aggregate amount of more than two million dollars ($2,000,000):

(A) Loans secured directly or collaterally by liens on real property or on business opportunities as agent for another or others.

(B) Sales or exchanges of real property sales contracts or promissory notes secured directly or collaterally by liens on real property or on business opportunities as agent for another or others.

(C) Sales or exchanges of real property sales contracts or promissory notes secured directly or collaterally by liens on real property as the owner of such notes or contracts.

(2) Make collections of payments in an aggregate amount of five hundred thousand dollars ($500,000) or more on behalf of owners of promissory notes secured directly or collaterally by liens on real property, owners of real property sales contracts, or both.

(3) Make collections of payments in an aggregate amount of five hundred thousand dollars ($500,000) or more on behalf of obligors of promissory notes secured directly or collaterally by liens on real property, lenders of real property sales contracts, or both.

Persons under common management, direction or control in conducting the activities enumerated above shall be considered as one person for the purpose of applying the above criteria.

(b) The negotiation of any combination of five or more new loans and sales or exchanges of existing promissory notes and real property sales contracts of an aggregate amount of more than five hundred thousand dollars ($500,000) in any three successive months or any combination of 10 or more new loans and sales or exchanges of existing promissory notes and real property sales contracts of an aggregate amount of more than one million dollars ($1,000,000) in any successive six months shall create a rebuttable presumption that the broker intends to negotiate new loans and sales and exchanges of an aggregate amount that will meet the criteria of subdivision (a).

(c) In determining the applicability of Section 10232.1, loans or sales negotiated by a broker, or for which a broker collects payments or provides other servicing for the owner of the note or contract, shall not be counted in determining whether the broker meets the criteria of subdivisions (a) and (b) if any of the following apply:

(1) The lender or purchaser is the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Government National Mortgage Association, a bank, a bank holding company, a wholly owned subsidiary of a bank holding company, a savings and loan association, a savings and loan association holding company, an industrial loan company, a credit union, an insurance company, or a pension trust.

(2) The loan or sale is negotiated, or the loan or contract is being serviced for the owner, under authority of a permit issued pursuant to Article 6 (commencing with Section 10237) or applicable provisions of the Corporate Securities Law of 1968 (Division 1 (commencing with Section 25000) of Title 4 of the Corporations Code).

(d) In determining the applicability of Sections 10232.2, 10232.25, 10232.4, and 10232.5, loans or sales negotiated by a broker, or for which a broker collects payments or provides other servicing for the owner of the note or contract, shall not be counted in determining whether the broker meets the criteria of subdivisions (a) and (b) if any of the following apply:

(1) The lender or purchaser is any of the following:

(A) The Federal National Mortgage Association, the Government National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Federal Housing Administration, and the Veteran's Administration.

(B) Any bank or subsidiary thereof, bank holding company or subsidiary thereof, trust company, savings bank or savings and loan association or subsidiary thereof, savings bank or savings association holding company or subsidiary thereof, credit union, industrial bank or industrial loan company, commercial finance lender, personal property broker, consumer finance lender, or insurance company doing business under the authority of, and in accordance with, the

laws of this state, any other state, or of the United States relating to banks, trust companies, savings banks or savings associations, credit unions, industrial banks or industrial loan companies, commercial finance lenders, or insurance companies, as evidenced by a license, certificate, or charter issued by the United States or any state, district, territory, or commonwealth of the United States.

(C) Trustees of a pension, profit sharing, or welfare fund, if the pension, profit sharing, or welfare fund has a net worth of not less than fifteen million dollars ($15,000,000).

(D) Any corporation with outstanding securities registered under Section 12 of the Securities Exchange Act of 1934 or any wholly owned subsidiary of that corporation.

(E) Any syndication or other combination of any of the entities specified in subparagraph (A), (B), (C), or (D) which is organized to purchase the promissory note.

(2) The loan or sale is negotiated, or the loan or contract is being serviced for the owner, under authority of a permit issued pursuant to the provisions of Article 6 (commencing with Section 10237) or applicable provisions of the Corporate Securities Law of 1968 (Section 25000 and following of the Corporations Code).

(e) If two or more real estate brokers who are not under common management, direction, or control, cooperate in the negotiation of a loan or the sale or exchange of a promissory note or real property sales contract and share in the compensation for their services, the dollar amount of the transaction shall be allocated according to the ratio that the compensation received by each broker bears to the total compensation received by all brokers for their services in negotiating the loan or sale or exchange.

(f) A real estate broker who on the effective date of this section satisfies the criteria of subdivision (a) or (b) shall, within 30 days thereafter, notify the Department of Real Estate in writing of that fact. A broker who first meets any of the criteria of subdivision (a) or (b) after January 1, 1982, shall notify the department in writing within 30 days after such a determination is made.

CHAPTER 743

An act to amend Section 8562 of the Business and Professions Code, relating to structural pest control.

[Approved by Governor October 8, 1991 Filed with Secretary of State October 9, 1991.]

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

SECTION 1. Section 8562 of the Business and Professions Code is amended to read:

8562. To obtain an original operator's license, an applicant shall

submit to the registrar an application in writing containing the statement that the applicant desires the issuance of an operator's license under the terms of this chapter.

The application shall be made on forms prescribed by the board and issued by the registrar in accordance with rules and regulations adopted by the board, and shall contain the following:

(a) The name of the applicant.

(b) Proof satisfactory to the board that the applicant has had actual experience for a period of not less than the time specified opposite the branches listed below in the employ of a registered company in the State of California in the particular branch or branches of pest control for which the applicant desires to be licensed, or the equivalent of that experience:

Branch 1	2 years
Branch 2	2 years
Branch 3	4 years
Branch 4	2 years

For the purpose of this subdivision one year shall equal 1,600 hours of actual experience in the field. However, any person who was actively involved in the business of commercially applying wood preservatives to shake or shingle roofs for at least two years in the five-year period prior to July 1, 1990, is deemed to have sufficient experience for Branch 4, provided the person submits proof to the board of that experience, and that person shall not be required to demonstrate to the board that he or she has satisfactorily passed the courses specified in Section 8565.5 as a condition for the issuance of a Branch 4 operator's license.

(c) A designation of the branch or branches for which the application is made.

(d) The fees prescribed by this chapter.

(e) No operator's license shall be issued to an individual under 18 years of age.

(f) Effective January 1, 1993, an operator's license shall not be issued to an individual unless that individual has been licensed as a field representative in the branch in which the individual has applied for an operator's license for a period of at least one year, in the case of Branch 1, 2, and 4, or for a period of at least two years for Branch 3, or has demonstrated to the satisfaction of the board that he or she has the equivalent of such training and experience.

CHAPTER 744

An act to add Section 42409 to the Health and Safety Code, relating to air pollution.

[Approved by Governor October 8, 1991. Filed with Secretary of State October 9, 1991.]

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

SECTION 1. Section 42409 is added to the Health and Safety Code, to read:

42409. Every district shall publish in writing and make available to any interested party a list which describes potential violations subject to penalties under this article . The list shall also include the minimum and maximum penalties for each violation which may be assessed by a district pursuant to this article.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 745

An act to amend Sections 66427.4 and 66428 of, and to add Sections 66427.5 and 66428.1 to, the Government Code, and to amend Section 50786 of the Health and Safety Code, relating to mobilehomes, and making an appropriation therefor.

[Approved by Governor October 8, 1991 Filed with Secretary of State October 9, 1991.]

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

SECTION 1. Section 66427.4 of the Government Code is amended to read:

66427.4. (a) At the time of filing a tentative or parcel map for a subdivision to be created from the conversion of a mobilehome park to another use, the subdivider shall also file a report on the impact of the conversion upon the displaced residents of the mobilehome park to be converted. In determining the impact of the conversion on displaced mobilehome park residents, the report shall address the availability of adequate replacement space in mobilehome parks.

(b) The subdivider shall make a copy of the report available to

each resident of the mobilehome park at least 15 days prior to the hearing on the map by the advisory agency or, if there is no advisory agency, by the legislative body.

(c) The legislative body, or an advisory agency which is authorized by local ordinance to approve, conditionally approve, or disapprove the map, may require the subdivider to take steps to mitigate any adverse impact of the conversion on the ability of displaced mobilehome park residents to find adequate space in a mobilehome park.

(d) This section establishes a minimum standard for local regulation of conversions of mobilehome parks into other uses and shall not prevent a local agency from enacting more stringent measures.

(e) The subdivider shall offer each existing tenant an option to purchase his or her condominium unit which is to be created by the conversion of the park into condominium interests or to continue residency as a tenant. In the event that the tenant elects to continue residency as a tenant in a park created pursuant to Chapter 11 (commencing with Section 50780) of Part 2 of Division 31 of the Health and Safety Code, Section 66427.5 shall be applicable.

SEC. 2. Section 66427.5 is added to the Government Code, to read:

66427.5. At the time of filing a tentative or parcel map for a subdivision to be created using financing or funds provided pursuant to Chapter 11 (commencing with Section 50780) of Part 2 of Division 31 of the Health and Safety Code, the subdivider shall avoid the economic displacement of all nonpurchasing residents in the following manner:

(a) As to nonpurchasing residents who are not lower income households, as defined in Section 50079.5 of the Health and Safety Code, the monthly rent, including any applicable fees or charges for use of any preconversion amenities, may increase from the preconversion rent to market levels, as defined in an appraisal conducted in accordance with nationally recognized professional appraisal standards, in equal annual increases over a four-year period.

(b) As to nonpurchasing residents who are lower income households, as defined in Section 50079.5 of the Health and Safety Code, the monthly rent, including any applicable fees or charges for use of any preconversion amenities, may increase from the preconversion rent by an amount equal to the average monthly increase in rent in the four years immediately preceding the conversion, except that in no event shall the monthly rent be increased by an amount greater than the average monthly percentage increase in the Consumer Price Index for the most recently reported period.

SEC. 3. Section 66428 of the Government Code is amended to read:

66428. (a) Local ordinances may require a tentative map where

a parcel map is required by this chapter. A parcel map shall be required for subdivisions as to which a final or parcel map is not otherwise required by this chapter, unless the preparation of the parcel map is waived by local ordinance as provided in this section. A parcel map shall not be required for either of the following:

(1) Subdivisions of a portion of the operating right-of-way of a railroad corporation, as defined by Section 230 of the Public Utilities Code, which are created by short-term leases (terminable by either party on not more than 30 days' notice in writing).

(2) Land conveyed to or from a governmental agency, public entity, public utility, or for land conveyed to a subsidiary of a public utility for conveyance to that public utility for rights-of-way, unless a showing is made in individual cases, upon substantial evidence, that public policy necessitates a parcel map.

(b) A local agency shall, by ordinance, provide a procedure for waiving the requirement for a parcel map, imposed by this division, including the requirements for a parcel map imposed by Section 66426. The procedure may include provisions for waiving the requirement for a tentative and final map for the construction of a condominium project on a single parcel. The ordinance shall require a finding by the legislative body or advisory agency, that the proposed division of land complies with requirements established by this division or local ordinance enacted pursuant thereto as to area, improvement and design, floodwater drainage control, appropriate improved public roads, sanitary disposal facilities, water supply availability, environmental protection, and other requirements of this division or local ordinance enacted pursuant thereto. In any case, where the requirement for a parcel map is waived by local ordinance pursuant to this section, a tentative map may be required by local ordinance.

(c) If a local ordinance does not require a tentative map where a parcel map is required by this division, the subdivider shall have the option of submitting a tentative map, or if he or she desires to obtain the rights conferred by Chapter 4.5 (commencing with Section 66498.1), a vesting tentative map.

SEC. 4. Section 66428.1 is added to the Government Code, to read:

66428.1. (a) When at least two-thirds of the owners of mobilehomes who are tenants in the mobilehome park sign a petition indicating their intent to purchase the mobilehome park for purposes of converting it to resident ownership, and a field survey is performed, the requirement for a parcel map or a tentative and final map shall be waived unless any of the following conditions exist:

(1) There are design or improvement requirements necessitated by significant health or safety concerns.

(2) The local agency determines that there is an exterior boundary discrepancy that requires recordation of a new parcel or tentative and final map.

(3) The existing parcels which exist prior to the proposed

conversion were not created by a recorded parcel or final map.

(4) The conversion would result in the creation of more condominium units or interests than the number of tenant lots or spaces that exist prior to conversion.

(b) The petition signed by owners of mobilehomes in a mobilehome park proposed for conversion to resident ownership pursuant to subdivision (a) shall read as follows:

MOBILEHOME PARK PETITION AND DISCLOSURE STATEMENT

SIGNING THIS PETITION INDICATES YOUR SUPPORT FOR CONVERSION OF THIS MOBILEHOME PARK TO RESIDENT OWNERSHIP. THIS DISCLOSURE STATEMENT CONCERNS THE REAL PROPERTY SITUATED IN THE CITY OF _____, COUNTY OF _____, STATE OF CALIFORNIA, DESCRIBED AS _____. THE TOTAL COST FOR CONVERSION AND PURCHASE OF THE PARK IS $____ TO $_____, EXCLUDING FINANCING COSTS. THE TOTAL COST TO YOU FOR CONVERSION AND PURCHASE OF YOUR OWNERSHIP INTEREST IS $____ TO $_____, EXCLUDING FINANCING COSTS. IF TWO-THIRDS OF THE RESIDENTS IN THIS PARK SIGN THIS PETITION INDICATING THEIR INTENT TO PURCHASE THE MOBILEHOME PARK FOR PURPOSES OF CONVERTING IT TO RESIDENT OWNERSHIP, THEN THE REQUIREMENTS FOR A NEW PARCEL, OR TENTATIVE AND FINAL SUBDIVISION MAP IN COMPLIANCE WITH THE SUBDIVISION MAP ACT MUST BE WAIVED, WITH CERTAIN VERY LIMITED EXCEPTIONS. WAIVING THESE PROVISIONS OF LAW ELIMINATES NUMEROUS PROTECTIONS WHICH ARE AVAILABLE TO YOU.

_____ _____

Buyer, unit #, date Petitioner, date

(c) The local agency shall provide an application for waiver pursuant to this section. After the waiver application is deemed complete pursuant to Section 65943, the local agency shall approve or deny the application within 50 days. The applicant shall have the right to appeal that decision to the governing body of the local agency.

(d) If a tentative or parcel map is required, the local agency shall not impose any offsite design or improvement requirements unless these are necessary to mitigate an existing health or safety condition. No other dedications, improvements, or in-lieu fees shall be required by the local agency. In no case shall the mitigation of a health or safety condition have the effect of reducing the number, or changing the location, of existing mobilehome spaces.

(e) If the local agency imposes requirements on an applicant to mitigate a health or safety condition, the applicant and the local agency shall enter into an unsecured improvement agreement. The local agency shall not require bonds or other security devices pursuant to Chapter 5 (commencing with Section 66499) for the performance of that agreement. The applicant shall have a period of one year from the date the agreement was executed to complete those improvements.

(f) If the waiver application provided for in this section is denied by the local agency pursuant to the provisions of subdivision (a), the applicant may proceed to convert the mobilehome park to a tenant-owned, condominium ownership interest, but shall file a parcel map or a tentative and final map. The local agency may not require the applicant to file and record a tentative and final map unless the conversion creates five or more parcels shown on the map. The number of condominium units or interests created by the conversion shall not determine whether the filing of a parcel or a tentative and final map shall be required.

(g) For the purposes of this section, the meaning of "resident ownership" shall be as defined in Section 50781 of the Health and Safety Code.

SEC. 5. Section 50786 of the Health and Safety Code is amended to read:

50786. (a) The department shall adopt regulations for the administration and implementation of this chapter.

(b) The department shall obtain the best available security for loans made pursuant to this chapter. The security may include a note, deed of trust, assignment of lease, or other form of security on real or personal property which the department determines is adequate to protect the interests of the state. To the extent applicable, these documents and any regulatory provisions shall be recorded or referenced in a recorded document in the office of the county recorder of the county in which the mobilehome park is located.

(c) The degree of continuing regulatory control with respect to park operations and resident loans exercised by the department in making loans pursuant to this chapter shall be commensurate with the level of financial assistance provided and in all cases shall be adequate to protect the state's security interest and ensure the accomplishment of the purposes of the program authorized by this chapter. The regulatory requirements shall be set forth in a regulatory agreement, deed of trust, or other lien, and any violation of these requirements shall be considered a violation of a security document.

(d) Before providing financing pursuant to this chapter, the department shall require provision of, and approve, at least all of the following:

(1) Verification that at least two-thirds of the households residing in the mobilehome park support the plans for acquisition and conversion of the park.

(2) Verification that either no park residents shall be involuntarily displaced as a result of the park conversion or the impacts of the displacement shall be mitigated as required under state and local law. For purposes of this requirement, compliance with Section 66427.5 of the Government Code shall be conclusively presumed to have mitigated economic displacement.

(3) Verification that the conversion is consistent with local zoning and land use requirements, other applicable state and local laws, and regulations and ordinances.

(4) Projected costs and sources of funds for all conversion activities.

(5) Projected operating budget for the park during and after the conversion.

(6) A management plan for the conversion and operation of the park.

(7) If necessary, a relocation plan for residents not participating which is in compliance with Chapter 16 (commencing with Section 7260) of Division 7 of Title 1 of the Government Code.

(e) The department shall, to the greatest extent feasible, do both of the following:

(1) Require participation by cities and counties in loan applications submitted pursuant to this chapter.

(2) Contract with private lenders or units of local government to provide program administration and to service loans made pursuant to this chapter.

SEC. 6. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 746

An act to amend Section 19546 of the Business and Professions Code, relating to horseracing.

[Approved by Governor October 8, 1991. Filed with Secretary of State October 9, 1991.]

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

SECTION 1. Section 19546 of the Business and Professions Code is amended to read:

19546. (a) In order to encourage and develop the racing of all horses in California, regardless of breed, whenever the California

State Fair and Exposition, a county fair, or a district agricultural association fair conducts a program of parimutuel wagering, it may provide a program of mixed breed racing that includes thoroughbred racing, harness racing, quarter horse racing, Arabian racing, paint racing, Appaloosa racing, steeplechase races, barrel races, and show jumping races.

(b) All recognized breeds of horses may compete in barrel races, show jumping races, and steeplechase races. Parimutuel wagering may be conducted on barrel races, show jumping races, and steeplechase races at any public or private facility which has been approved and licensed by the board.

CHAPTER 747

An act to add Chapter 9 (commencing with Section 24101) to, to repeal the heading of Article 1 (commencing with Section 23801) and to repeal Article 2 (commencing with Section 23831) of Chapter 6 of, Division 11 of, the Food and Agricultural Code, and to amend Section 25988.5 of the Health and Safety Code, relating to animals.

[Approved by Governor October 8, 1991. Filed with Secretary of State October 9, 1991.]

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

SECTION 1. The Legislature finds and declares the following:

(a) Horses, ponies, mules, and burros are lost through theft, abuse, and destruction, which constitutes a loss of public property, and a loss to the state of tax revenues, which would otherwise have been obtained from sales taxes on the sale of feed, grain, and tack purchased for these animals.

(b) The purpose of this act is to protect horses, ponies, mules, and burros.

SEC. 2. Chapter 9 (commencing with Section 24101) is added to Division 11 of the Food and Agricultural Code, to read:

CHAPTER 9. EQUINE PROTECTION: ENFORCEMENT

24101. This chapter shall be known and may be cited as the Equine Protection Act of 1991.

24102. For purposes of this chapter:

(a) "Animal" means a horse, pony, mule, or burro.

(b) "Program" means the program of equine protection and identification of the department.

(c) "Slaughter" means to kill an animal and prepare it for consumption by animals or human beings.

24103. There is in the department a program of equine protection and identification.

24105. No investigator of the program or any other employee of the department, in enforcing this chapter, shall be required to conduct any investigation that involves the theft of any animal. That investigation shall be conducted by the law enforcement entity that filed the theft report.

24106. No person shall purchase, consign, sell, or accept the donation of an animal which is destined for slaughter unless the seller or donor of the animal provides, and the purchaser or donee receives, at the time of delivery, a written bill of sale or any written instrument which contains all of the following information:

(a) A description of each animal which is sold that includes its sex, breed, color, approximate height and weight, approximate age, natural marks, or identifying scars, and of each brand or tatoo and its location. If the animal has been branded or tatooed and registered with the Bureau of Livestock Identification in the department, the identification papers shall accompany the animal.

(b) The name, address, signature, and motor vehicle driver's license number of the person who sold or donated the animal.

(c) The date of the transaction.

(d) The name, address, and motor vehicle driver's license number of the purchaser of the animal.

(e) The name, address, and motor vehicle driver's license number of any person who transports the animal to the purchaser or an auction yard.

24107. Every operator of an auction yard or dealer who handles animals destined for slaughter shall keep a written record of all sales and purchases made in the course of conducting the business for at least two years after making the final entry of any purchase, sale, or donation of an animal. The operator of an auction yard or the dealer shall show the record on demand to any investigator of the program or any peace officer.

24108. Any person who does not keep the written records required by this chapter or who refuses, upon demand of any investigator of the program or any peace officer, to show the record, or any person who destroys the record within two years after making the final entry of any purchase, consignment, sale, or donation of any animal, is guilty of an infraction.

24109. (a) No animal, whether branded or not, shall be shipped, transported, hauled, or delivered for slaughter, unless it is inspected by an inspector of the program.

(b) As part of the inspection required by this section, the inspector shall be provided a valid bill of sale containing the information designated in Section 24106 for each individual animal.

24110. An inspector shall seize any animal for which a valid bill of sale containing the information designated in Section 24106 is not provided.

24111. Except as otherwise provided in this chapter, it is unlawful for any person to remove from the possession of an inspector any animal seized or which is otherwise in the possession of an inspector.

24112. If the animal which is seized or otherwise in the possession of the inspector is branded, the director shall cause a search to be made of the brand records to ascertain the owner.

24113. If the brands or marks are recorded, the director shall immediately, by letter, notify the person in whose name the brands or marks are recorded.

24114. If the owner cannot be ascertained, the director shall cause a notice of the seizure of the animal to remain posted for a period of 14 days on a bulletin board in each office of the Bureau of Livestock Identification. In addition to posting the notice, the director shall periodically publish a list of the descriptions of the animals, containing the information specified in Section 24106, in the classified section of a horse-oriented publication which is in general circulation throughout the State of California. The notices shall also state the time and place of the animal's proposed sale.

24115. Any person that claims ownership of the animal may, at any time, but not later than 14 days after the first posting of the notice, file his or her proof of ownership with the director and the director shall proceed to determine the claim of ownership.

24116. If ownership is proved to the satisfaction of the director, the animal shall be returned to the owner upon payment by the owner of all expenses which were incurred in the handling of the animal.

24117. If the animal at any time while in the possession of an inspector is in a condition which requires immediate disposal, the animal may be disposed of by the director. The proceeds from the salvage, if any, in excess of expenses which were incurred in the handling of the animal shall be paid to the person proving ownership pursuant to Section 24116.

24118. If after 14 days from the date of the first posting of notice, no satisfactory proof of ownership of the animal has been made, or if the owner fails or refuses to pay all expenses which were incurred, the director shall sell the animal. All sales which are made pursuant to this chapter convey a good and valid title to the purchaser.

24119. The proceeds from the sale of any animal shall be paid into, and the expenses of holding, advertising, sale, and other incidental expenses shall be paid from, the Department of Food and Agriculture Fund.

24120. If any person shall, within one year after the date of the sale, prove to the satisfaction of the director his or her ownership of an animal which was sold pursuant to this article, the director shall order the net proceeds of the sale of the animal to be paid to that person.

24121. If the inspector of the program determines that the person who offers the animal for inspection is in lawful possession, the inspector shall issue a certificate of inspection.

24122. The certificate of inspection shall be signed by the inspector of the program and shall indicate all of the following:

(a) The place and date of inspection and the number of animals

inspected.

(b) The sex, breed, color, approximate height and weight, approximate age, natural marks and identifying scars, and a description of each brand or tattoo and its location on each animal.

(c) If the animal is to be transported, the names of the shipper and consignee and the point of origin and the final destination of the shipment.

(d) If the animal is to be transported, the length of time necessary to transport the animal between the point of inspection and the point of final destination. The inspector shall determine the amount of time needed for this purpose, based upon the information provided to him or her at the time of inspection.

The certificate issued pursuant to this section shall only be valid for transportation purposes during the period of time specified on the certificate by the inspector.

24123. It is unlawful for any inspector to issue a certificate of inspection unless he or she personally makes the inspection between sunrise and sunset.

24124. One copy of the certificate of inspection required by this chapter shall accompany the shipment of animals.

24125. Any person who transports an animal destined for slaughter who does not have a copy of the certificate of inspection as required pursuant to this chapter or who refuses, upon demand of any investigator of the program or any peace officer, to exhibit a copy of the certificate, is subject to a civil penalty not to exceed fifty dollars ($50) for each animal.

24126. It is unlawful for any person to remove any animal and substitute another for it, or to add any other animal or transport an animal from any lot of animals for which a certificate has been issued, until the shipment or slaughter is completed, unless the inspector who issued the certificate approves these actions in writing. A violation of this section is a misdemeanor.

24127. (a) Each dealer who handles animals destined for slaughter, and who ships more than 15 or more animals at a time for slaughter, shall pay the inspector a service fee of twenty-five dollars ($25), in addition to a fee of ten dollars ($10) for each animal. The inspection shall take place within 24 hours of the date of transportation.

(b) Each dealer who handles animals destined for slaughter, and who ships less than 15 animals at a time for slaughter, shall pay the inspector for the actual cost of the inspection, as determined by the director. The inspection shall take place immediately prior to when the animal to be shipped is loaded onto the conveyance.

(c) The fees shall be paid at the point of inspection of the animals. The revenue derived from these fees shall be deposited in the Department of Food and Agriculture Fund and, upon appropriation by the Legislature, shall be expended to carry out this chapter. The department shall maintain all internal accounting measures necessary to ensure that revenue derived pursuant to this chapter

shall be kept separate from all other funds in the Department of Food and Agriculture Fund.

24128. (a) The inspector shall make a memorandum which shows the number, sex, breed, color, approximate height and weight, approximate age, natural marks and identifying scars, and a description of each brand or tattoo and its location on each animal which is inspected, and the names of the owner or claimant, consignor, or consignee.

(b) The memorandum of the inspection shall be retained for record purposes by the inspector for at least two years after the date of the inspection.

24129. The department shall maintain inspection certificates for a period of five years in a manner that shall disclose the number of animals that have been inspected.

24130. Any person that is engaged in the business of buying or selling animals on consignment at any public or private salesyard shall keep after each sale, a certificate of consignment which contains all of the following information:

(a) The name and address of the consignor.

(b) A description of each animal which is sold that includes its sex, breed, color, approximate height and weight, approximate age, natural marks and identifying scars, and a description of each brand or tattoo and its location on each animal.

(c) Reasonable proof of the ownership of the animal.

(d) The license number of any vehicle which transports the animal to the salesyard. If the animal is transported in a trailer, the license number of both the trailer and the vehicle which pulls it shall be given.

(e) The signature of the consignor.

24131. Any person subject to Section 24130 shall retain the certificate of consignment on file for a period of at least two years after the sale. The certificates of consignment shall be presented on demand of any peace officer or any agent of the program.

24132. (a) Notwithstanding any other provision of law, a person is civilly liable for four times the value of the animal at the time of taking, possessing, harboring, transporting, or slaughtering of the animal, with interest, at the prime rate from the date of that occurrence, for attorney fees incurred in the recovery of the animal, and for an amount in fair compensation for the time and money properly expended by the owner in pursuit of the animal, as follows:

(1) In any action for the wrongful taking, possessing, harboring, or transporting of an animal for slaughter or for the slaughter of the animal without the consent of the owner or the person lawfully in possession of the animal or any animal whose ownership is still in dispute.

(2) In any action where a person knowingly, by any false representation or pretense, defrauds another person of any animal, which results in the wrongful taking, possessing, harboring, or transporting of the animal for slaughter without the consent of the

owner or the person lawfully in possession of the animal or any animal whose ownership is still in dispute.

(b) The commencement of any criminal prosecution for the theft of the animal shall not preclude or prevent any civil action as specified in this section.

24133. Any person who transports an animal destined for slaughter out of the state under false pretenses in order to avoid an inspection under this chapter is guilty of a misdemeanor and subject to a fine of five hundred dollars ($500) for each animal so transported.

SEC. 3. The heading of Article 1 (commencing with Section 23801) of Chapter 6 of Division 11 of the Food and Agricultural Code is repealed.

SEC. 4. Article 2 (commencing with Section 23831) of Chapter 6 of Division 11 of the Food and Agricultural Code is repealed.

SEC. 5. Section 25988.5 of the Health and Safety Code is amended to read:

25988.5. (a) Citations issued pursuant to Section 25988 shall require the person cited to pay a civil penalty in the amount of one hundred dollars ($100) for each violation, and one hundred dollars ($100) for each day the violation continues.

(b) Any person who violates Section 25988 may be prosecuted by the district attorney of the county in which the violation occurred or the city attorney of the city in which the violation occurred.

SEC. 6. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 748

An act to amend Sections 752, 754, 756, 758, 760.5, 763, 764, 772, 777, 782, and 783 of the Public Resources Code, relating to forestry.

[Approved by Governor October 8, 1991. Filed with Secretary of State October 9, 1991.]

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

SECTION 1. Section 752 of the Public Resources Code is amended to read:

752. "Professional forester," as used in this article, means a person

who, by reason of his or her knowledge of the natural sciences, mathematics, and the principles of forestry, acquired by forestry education and experience, performs services, including, but not limited to, consultation, investigation, evaluation, planning, or responsible supervision of forestry activities when such professional services require the application of forestry principles and techniques.

SEC. 2. Section 754 of the Public Resources Code is amended to read:

754. As an alternative to registration as a professional forester, or as a certified specialist pursuant to Section 772, any federal agency may submit, for board recognition, its independent certification program. Recognition by the board shall be based on its finding that the certification program submitted fully protects the public interest, including qualifications and methods of disciplining certificants consistent with Sections 775, 777, and 778. These certificants shall be considered "qualified but exempt" from registration by the board in that area of practice in relation to activities on federal land. A person who is "qualified but exempt" pursuant to this section shall not represent himself or herself as a "professional forester" or specific board "certified specialist" until that person complies with the requirements of the board for these titles. The board shall not take any corrective action pursuant to this section until July 1, 1993, to allow time to comply with this section.

SEC. 3. Section 756 of the Public Resources Code is amended to read:

756. Nothing in this article prohibits any person from engaging in those activities otherwise restricted to professional foresters, certified specialists, or qualified but exempt certificants, provided a registrant is in charge of the professional practice or work of that person and all professional work or documents are done by or under the supervision of the registrant.

SEC. 4. Section 758 of the Public Resources Code is amended to read:

758. This article shall not be construed to authorize a registered professional forester to practice civil engineering as defined in Chapter 7 (commencing with Section 6700) of Division 3 of the Business and Professions Code or to practice land surveying as defined in Chapter 15 (commencing with Section 8700) of Division 3 of the Business and Professions Code or to practice landscape architecture, as defined in Chapter 3.5 (commencing with Section 5615) of Division 3 of the Business and Professions Code.

SEC. 5. Section 760.5 of the Public Resources Code is amended to read:

760.5. The board may hire the clerical and secretarial employees, technical personnel, and other staff who are necessary and budgeted to properly assist the work of the board in carrying out the purposes of this article. This staff personnel shall be subject to the relevant system and procedures of the state civil service. The provisions of the

State Civil Service Act contained in Part 2 (commencing with Section 18500) of Division 5 of Title 2 of the Government Code shall apply to that personnel. The executive officer shall be an employee exempt from civil service.

SEC. 6. Section 763 of the Public Resources Code is amended to read:

763. (a) The board shall establish an examining committee of at least seven members composed of the following, who shall be appointed by the board and serve at its pleasure:

(1) Two public members with one selected from the membership of the board.

(2) At least four professional foresters in good standing representing a broad cross section of employment and expertise.

(3) At least one other natural resource professional.

(b) The examining committee shall do all of the following:

(1) Examine all applicants for registration as professional foresters and for specialty certificates.

(2) Recommend to the board applicants for the license of professional forester and applicants for specialty certificates who fulfill the requirements of this article.

(3) Review complaints, which review may include independent investigations or expert witness evaluations, and make disciplinary recommendations to the board.

(4) Establish ad hoc committees as needed with representatives of certified specialists.

(5) Recommend to the board whether an independent certification program qualifies for recognition under Section 754.

(6) Recommend adoption of the rules and regulations or changes in rules and regulations which may be needed to effect this article.

SEC. 7. Section 764 of the Public Resources Code is amended to read:

764. Any person appointed to serve upon the examining committee shall receive, if requested, one hundred dollars ($100) for each day during which he or she is engaged in the performance of his or her official duties, except that the compensation of each member shall not exceed in any one fiscal year the sum of one thousand dollars ($1,000). In addition, each member shall be reimbursed for necessary expenses incurred in the performance of his or her duties, including travel, at state rates.

SEC. 8. Section 772 of the Public Resources Code is amended to read:

772. (a) Instead of being registered as a professional forester, an applicant may request to be registered as a certified specialist in one or more fields of forestry. Registration in a specialty area does not prohibit a professional forester from providing services within that professional forester's area of expertise. Specialties shall be developed by the board based on need, in conjunction with the examining committee and its ad hoc committees, and shall establish the scope of practice.

(b) As an alternative to a board-developed specialty, any public agency or professional society may submit for board recognition its independent certification program as full qualification without examination for the board's certificate of specialization. That certification as a specialist shall be granted provided the board determines the program fully protects the public interest in that area of practice encompassed by the program. Those certificants are subject to board registration and discipline with review by that specialty. The board shall not take any corrective action pursuant to this section until December 31, 1993, to allow time to comply with this section.

SEC. 9. Section 777 of the Public Resources Code is amended to read:

777. If the board finds against the registrant, the board, in its decision, may terminate all operations of the registrant during the period fixed by the decision, except those operations the board determines that the person may complete. The board may impose upon the registrant compliance with specific conditions as may be just in connection with his or her operations, and may further provide that, until the conditions are complied with, no application for restoration of the suspended or revoked registration shall be accepted by the board.

The board shall provide public notice of the suspension or revocation pursuant to this section.

The board may issue a private reprimand when a registrant commits a failure of responsibility which warrants a lesser level of discipline than suspension. The issuance of a private reprimand does not prohibit the board from using the subject of the private reprimand in an accusation, within the statute of limitations, seeking suspension or revocation resulting from a subsequent complaint, to establish a pattern of lesser failures of professional responsibility. If the evidence is insufficient to support a private reprimand or an accusation, the executive officer for registration may send a letter expressing the examining committee's concerns.

SEC. 10. Section 782 of the Public Resources Code is amended to read:

782. The amount of fees shall be established by regulations of the board within the following ranges, and based on a determination by the board of the amount of revenues reasonably necessary to carry out this article:

(a) The application fee for registration or each certificate of specialization shall be not less than fifty dollars ($50) and not more than two hundred dollars ($200).

(b) The registration fee and certificate of specialization fees and renewal fees shall be not less than twenty-five dollars ($25) and not more than two hundred fifty dollars ($250). Every licensed person shall, on or before July 1 of each year, pay the renewal fee.

(c) The fee for issuance of a duplicate display registration document or certificate of specialization shall be not less than five

dollars ($5) and not more than twenty-five dollars ($25).

(d) The penalty fee for failure to apply for a renewal shall be not less than ten dollars ($10) and not more than twenty-five dollars ($25) for each month of delinquency. In return for the payment of the renewal fee and any applicable late fees, a renewal registration card shall be issued.

(e) A registrant or certificant may, upon written notice to the board, be granted a withdrawal period without penalty not to exceed five years. A reinstatement application shall be accompanied with a fee of not less than fifteen dollars ($15) and not more than fifty dollars ($50), for registration or each certificate of specialization.

SEC. 11. Section 783 of the Public Resources Code is amended to read:

783. In case any person defaults in payment of the renewal fee, his or her registration may be revoked by the board on 60 days' notice in writing from the board, unless within this time the fee is paid, together with penalty, not exceeding the amount fixed by this article. Upon payment of the fee and penalty within one year, the board shall reinstate the person's registration.

CHAPTER 749

An act to amend Sections 22813.5, 22859, 22862.1, and 22862.2 of, and to repeal and add Section 22813.6 of, the Government Code, relating to public employees, and making an appropriation therefor.

[Approved by Governor October 8, 1991. Filed with Secretary of State October 9, 1991]

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

SECTION 1. Section 22813.5 of the Government Code is amended to read:

22813.5. Thirty days prior to or 30 days following retirement and during the annual open enrollment period, a state employee who is enrolled in the flexible benefits plan administered by the Department of Personnel Administration or the Trustees of the California State University shall be given the option to elect coverage in any available board-administered health plan and receive the applicable employer's contribution toward the health benefits premium, if the state employee would otherwise qualify as an annuitant.

SEC. 2. Section 22813.6 of the Government Code is repealed.

SEC. 3. Section 22813.6 is added to the Government Code, to read:

22813.6. Notwithstanding any other provision of law, a state employee participating in the flexible benefits program administered by the Department of Personnel Administration or the

Trustees of the California State University, who either terminated enrollment in a board-administered health plan in reliance on other medical coverage or was enrolled in a board-administered health plan for self only, may enroll without regard to an open enrollment period for coverage as follows: (a) for self alone or self and all eligible dependents, if the flexible cash option is discontinued; or, (b) to add all eligible dependents, upon their loss of coverage, where the flexible cash option has not been selected.

Either type of enrollment shall be requested within 60 calendar days of the loss of other coverage and submitted to the retirement system through the Department of Personnel Administration or the Trustees of the California State University. The effective date of these enrollments shall be the first day of the month following the loss of other coverage. Either type of enrollment shall entitle the state employee to receive the benefit of the applicable employer's contributions toward the health plan costs under Section 22825.1.

SEC. 4. Section 22859 of the Government Code is amended to read:

22859. A contracting agency may elect by amendment to its contract with the board to participate in a Medicare reimbursement program for its employees or annuitants, or family members of employees or annuitants, who are enrolled in a health benefits plan under this part that provides supplemental benefits for persons enrolled under the health insurance provisions of Title XVIII of the federal Social Security Act. The program shall apply to reimbursement of the amount of Medicare's standard charge exclusive of surcharge for late enrollment for insurance described in Part B under the Social Security Act, as prescribed by board regulations.

SEC. 5. Section 22862.1 of the Government Code is amended to read:

22862.1. Notwithstanding any other provision of law, the board may contract with health maintenance organizations or fee-for-service plans, licensed and doing business in other states to provide health benefits for active state employees and active employees of contracting agencies, who are assigned to perform duties outside of this state and for active and retired employees who choose to reside out of this state. The contracts shall be on such terms as the board in its discretion deems necessary or desirable. The plans may not be required to meet the minimum requirements of the board, as specified in the regulations of the board, but shall, at a minimum, provide appropriate safeguards for members. For purposes of this section, an employee is permanently assigned out-of-state if the assignment is intended to exceed four months.

SEC. 6. Section 22862.2 of the Government Code is amended to read:

22862.2. An out-of-state employee who separates from service as an employee of this state or a contracting agency and becomes an annuitant, as defined by Section 22754, may continue his or her

enrollment in a board-approved out-of-state health benefits plan or may transfer to any other plan approved or maintained by the board.

An annuitant who leaves this state and elects to reside in another state in which the board maintains a health benefits plan which is approved by the board may transfer his or her enrollment to that plan and shall be entitled to the benefits of the employer's contributions as provided in this part.

SEC. 7. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 750

An act to amend Section 1 of, to repeal Sections 2 and 4 of, and to amend and renumber Section 3 of, Chapter 153 of the Statutes of 1974, and to create the Ojai Basin Groundwater Management Agency, relating to water.

[Approved by Governor October 8, 1991. Filed with Secretary of State October 9, 1991]

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

SECTION 1. This act shall be known and may be cited as the Ojai Basin Groundwater Management Agency Act.

Article 1. Creation

Sec. 101. The Legislature hereby finds and declares that the preservation of the groundwater within the territory of the Ojai Basin Groundwater Management Agency, created pursuant to Section 102 for the protection of agricultural, municipal, and industrial uses, is in the public interest and for the common benefit of water users within the agency.

Sec. 102. The Ojai Basin Groundwater Management Agency is hereby created. The agency shall exercise the express powers granted by this act for purposes of groundwater management within the territory of the agency, together with other powers reasonably implied and necessary and proper to carry out the purposes of the

agency.

Article 2. Boundaries

Sec. 201. For the purposes of this act, the boundaries of the agency include that portion of the Ojai Basin watershed which lies within the boundaries of the Casitas Municipal Water District or the Ojai Water Conservation District, but do not include any land within the boundaries of the Ventura River County Water District. The boundaries of the agency are more particularly described as follows:

The point of beginning is located at the intersection of the centerline of Creek Road and the northerly boundary of Camp Comfort; thence, northerly along the centerline of Creek Road to the point of intersection with the centerline of Hermosa Road; thence, westerly and northwesterly along the centerline of Hermosa Road to the point of intersection with the easterly line of Ventura Avenue, also known as State Highway Routes 33 and 150; thence, northerly along that easterly line of Ventura Avenue to the point of intersection with the centerline of Ojai Avenue; thence, northeasterly along the centerline of Ojai Avenue to the point of intersection with the centerline of Del Norte Road; thence, northerly along the centerline of Del Norte Road and the northerly prolongation of the centerline of Del Norte to the north quarter corner of Section 35, Township 5 North, Range 23 West, San Bernardino Base and Meridian, that point being also a point in the boundary of the Casitas Municipal Water District; thence along that boundary; thence east along the north line of that Section 35 and along the north line of Section 36 of that Township and Range and Sections 31, 32, 33, and 34 of Township 5 North, Range 22 West, San Bernardino Base and Meridian to the northeast corner of that Section 34; thence, south along the east line of that Section 34 and the east line of Section 3, Township 4 North, Range 22 West, San Bernardino Base and Meridian to the northwest corner of the south one-half of the northwest one-quarter of Section 2 of that last mentioned Township and Range; thence, east along the north line of that south one-half of the northwest one-quarter of Section 2 to the northeast corner thereof, south along the east line of that south one-half of the northwest one-quarter of Section 2 to the southeast corner thereof; thence, west along the south line of that south one-half of the northwest one-quarter of Section 2 to the northeast corner of the west one-half of the southwest one-quarter of that Section 2; thence, south along the east line of that west one-half of the southwest one-quarter of Section 2 to the southeast corner thereof to a point in the north line of fractional Section 11, Township 4 North, Range 22 West, San Bernardino Base and Meridian; thence, east along that north line to the north quarter corner of that fractional Section 11; thence, in a varying generally southwesterly and westerly direction along the watershed dividing ridge line, as shown on the Ojai Quadrangle of the United States Geological Survey 7.5 minute series

of topographic maps, between the Ojai Valley and the Lions Creek Drainage, a distance of approximately four and three-quarter miles, more or less, to the point at which the 1,400-foot contour intersects the range line common to Range 22 West and Range 23 West, San Bernardino Base and Meridian; thence, in a straight line in a generally south of west direction a distance of approximately one and one-half miles, more or less, to the point of beginning.

Sec. 202. The boundaries of the agency shall be depicted on a map which shall be adopted by the board and thereafter recorded in the office of the county recorder.

Article 3. Definitions

Sec. 301. Unless otherwise indicated by their context, the terms defined in this article govern the interpretation of this act.

Sec. 302. "Agency" means the Ojai Basin Groundwater Management Agency.

Sec. 303. "Aquifer" means a geologic formation or structure that transmits or stores water in sufficient quantities to supply pumping wells or springs.

Sec. 304. "Available supply" means that quantity of groundwater which can be withdrawn in any given year from the groundwater basin without resulting in, or aggravating, conditions of overdraft, subsidence, or groundwater quality degradation. Available supply of the basin includes the natural water supply, imported water, and other water which has been spread to the basin or has otherwise reached the basin and return flows to the basin attributable to these sources reaching the basin in the course of use.

Sec. 305. "Basin" means the Ojai groundwater basin, as shown in the Department of Water Resources Bulletin No. 12, "Ventura County Investigation," dated October 1953, to the extent included within the boundaries of the district, as defined in Section 201.

Sec. 306. "Board" means the board of directors of the agency.

Sec. 307. "Conjunctive use" means the coordinated operation of groundwater and surface water supplies. Conjunctive use includes increased groundwater use or decreased groundwater replenishment with surface supplies in years when surface supplies are less than normal and, in years of more abundant surface supplies, the increased use of surface water in lieu of groundwater, either to allow groundwater levels to recover or to replenish artificial groundwater supplies. Conjunctive use also includes long-term storage of water in the basin.

Sec. 308. "County" means the County of Ventura.

Sec. 309. "Export" means extracting groundwater from the basin for use on land, or within an area, which does not overlie or is not within the boundaries of the agency. Export does not include use on or after January 1, 1992, within any area served by groundwater from the basin prior to January 1, 1992.

Sec. 310. "Extraction" means the act of obtaining groundwater

by pumping or other controlled means.

Sec. 311. "Extraction facility" means any device or method for the extraction of groundwater within the basin.

Sec. 312. "Groundwater" means water beneath the surface of the earth within the zone below the water table in which the soil is completely saturated with water.

Sec. 313. "Groundwater basin" means a geologically and hydrologically defined area containing one or more aquifers which store, transmit, and yield significant quantities of water to wells, or are capable of doing so.

Sec. 314. "Groundwater management activities" means programs, measures, or actions taken to preserve, monitor, protect, and enhance groundwater resources within the territory of the agency.

Sec. 315. "Groundwater rights adjudication" means the determination of substantially all rights in the basin or the area subject to the adjudication.

Sec. 316. "Mutual water company" means a corporation organized for, or engaged in the business of, selling, distributing, supplying, or delivering water to its stockholders and members at cost for irrigation purposes or for domestic use.

Sec. 317. "Notice" or a "noticed hearing" means the notice required by Section 6061 of the Government Code.

Sec. 318. "Operator" means a person who operates a groundwater extraction facility. If the agency is unable to determine who operates a particular extraction facility, then "operator" shall mean the person to whom the extraction facility is assessed by the county assessor or, if not separately assessed, the person who owns the land upon which the extraction facility is located.

Sec. 319. "Overdraft" means the condition of the basin where the average annual amount of water extracted exceeds the average annual supply of water to the basin.

Sec. 320. "Person" includes any state or local governmental agency, private corporation, firm, partnership, individual, group of individuals, or, to the extent authorized by law, any federal agency.

Sec. 321. "Program" means a groundwater management program prepared by the agency pursuant to this act.

Sec. 322. "Recharge" means the natural or artificial replenishment of groundwater storage by percolation or injection of one or more sources of water at the surface.

Sec. 323. "Replenishment" means spreading water over a permeable area for the purpose of allowing it to percolate to groundwater basins or aquifers, or otherwise adding water to groundwater basins or aquifers.

Sec. 324. "Supplemental water" means surface water or groundwater imported from outside the watershed or watersheds of the basin and flood waters that are conserved and saved within the watershed or watersheds which would otherwise have been lost or would not have reached the basin.

Sec. 325. "Temporary surplus" means the amount of water that can be extracted from the basin without permanently adversely affecting the available supply of the basin or the ability of the basin to provide storage space for natural or artificial recharge that would be lost during wet years if it could not be stored in the basin.

Sec. 326. "Water year" means the period from October 1 of one calendar year to September 30, inclusive, of the following calendar year.

Sec. 327. "Well interference" means a substantial water level decline in a short time period in a localized area caused by pumping from extraction facilities.

Article 4. General Provisions

Sec. 401. (a) The board shall consist of five directors and shall be selected in the following manner:

(1) One director shall be a member of, and be appointed by, each of the following entities, and shall be chosen by their respective governing boards or bodies from their members whose districts or divisions, if any, overlie, at least in part, the boundaries of the agency:

(A) The Ojai City Council.

(B) The Board of the Casitas Municipal Water District.

(C) The Board of the Ojai Water Conservation District.

(2) One director shall be a representative of the Southern California Water Company.

(3) One director shall be chosen from the members of the governing boards of the following mutual water companies whose territory at least in part overlies the boundaries of the agency.

(A) The Senior Canyon Mutual Water Company.

(B) The Siete Robles Mutual Water Company.

(C) The Hermitage Mutual Water Company.

The mutual water company director shall be chosen at a public meeting where each mutual water company is represented by the chairperson of its governing board. If the mutual water companies fail to appoint a director within three months, the remaining four directors shall appoint a director from one of the boards of the mutual water companies identified in this paragraph.

(b) The board is the governing body of the agency and shall exercise the powers of the agency.

Sec. 402. (a) No provisions of this act shall be construed to deny any entity from which a board member is or may be selected any rights or powers which they have or may be granted.

(b) The agency shall not involve itself in activities normally and historically undertaken by any entity, such as the construction and operation of dams, spreading grounds, pipelines, flood control facilities, groundwater wells, and water distribution facilities, or the wholesale and retail sale of water, without prior consent of those entities, and shall otherwise limit its activities to monitoring, planning, managing, controlling, preserving, and regulating the

extraction and use of groundwater within the boundaries of the agency.

Sec. 403. This act does not abrogate or impair the overlying or appropriative rights of landowners or existing appropriators within the agency, including the right to seek an adjudication of those rights, or abrogate or impair the jurisdiction of the California Public Utilities Commission in regulating the activities and assets of the Southern California Water Company.

Sec. 404. (a) The board may adopt ordinances for the purpose of monitoring, regulating, conserving, managing, and controlling the use and extraction of groundwater within the boundaries of the agency. All ordinances shall be adopted, after a noticed public hearing, by a majority vote of the board. Notice of the adoption of all ordinances shall be given. The ordinances of the agency shall become effective on the 31st day after adoption.

(b) Notwithstanding subdivision (a), the board shall comply with the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of the Government Code), and may adopt as an urgency measure an interim ordinance. That urgency measure shall require a ⅘ vote of the board for adoption. The interim ordinance shall have no force and effect 45 days after its adoption. After a noticed public hearing, the board may extend the interim ordinance for 10 months and 15 days by a ⅘ vote of the board.

Sec. 405. Any person who intentionally violates this act or any agency ordinance is guilty of an infraction and may be required to pay a fine to the agency not to exceed five hundred dollars ($500). No fine shall be imposed until written notice has been given by registered mail to the alleged violator stating that a hearing will be held by the board not less than 30 days after the date of the notice, at which time the board will consider the imposition of the fine.

Sec. 406. Any person who negligently or intentionally violates this act or any agency ordinance may also be liable civilly to the agency for a sum not to exceed one thousand dollars ($1,000) per day for each day of violation, in addition to any other penalties that may be prescribed by law. No liability shall be imposed until written notice has been given by registered mail to the alleged violator stating that a hearing will be held by the board not less than 30 days after the date of the notice, at which time the board will consider the imposition of the liability.

Sec. 407. Upon the failure of any person to comply with this act or any agency ordinance, the agency may petition the superior court for a temporary restraining order, preliminary or permanent injunction, or other appropriate equitable relief. The right to petition for injunctive relief is in addition to other rights, which may be provided elsewhere in this act or otherwise allowed by law.

Sec. 408. The agency may petition the superior court of the county to recover any sums due the agency or damages incurred by the agency. To preserve and manage the groundwater resources within the agency, the agency may commence, maintain, intervene

in, defend in, compromise, and assume the costs and expenses incurred by the agency in, actions and proceedings involving groundwater, including, but not limited to, groundwater rights adjudication.

Sec. 409. The agency may contract for staff and other services and may hire other contractors and consultants.

Sec. 410. The agency may exclude from any of the requirements of this act, or the operation of any ordinance, any operator who extracts less than a minimum amount of groundwater as specified by ordinance adopted by the board.

Article 5. Studies and Investigations

Sec. 501. The agency may collect data and conduct technical and other investigations in order to carry out this act. All hydrological investigations and studies carried out by, or on behalf of, the agency shall be conducted by, or under the supervision of, licensed engineers or other persons qualified in groundwater geology or hydrology.

Sec. 502. (a) The agency shall prepare annually a report on groundwater supplies and conditions in the agency, including groundwater management objectives and a plan of implementation of those objectives, following a determination that groundwater management activities may be necessary.

(b) The agency may prepare, or receive reports on groundwater and supplemental water supplies and conditions in the territory of the agency, including groundwater management and conjunctive use objectives and a plan for implementation of those objectives.

Sec. 503. The agency may recommend and encourage wastewater reuse and other water development projects, if those projects will enhance and contribute to the responsible management of groundwater resources, as part of its annual plan for implementation of groundwater management objectives.

Article 6. Groundwater Management Plans

Sec. 601. In order to maximize the long-term available supply, the agency shall develop, adopt, and implement a plan to protect the basin's groundwater quality and to balance long-term average annual water replenishment and extractions in the basin.

Sec. 602. The agency shall undertake a study to develop the plan required pursuant to Section 601 which includes all of the following components:

(a) A list of groundwater extraction facilities within the boundaries of the agency.

(b) For each extraction facility, an estimate of annual water production, in acre-feet per year, using industry accepted monitoring and testing procedures.

(c) A table and graph depicting water level readings, as of each

October 1, from acceptable sources for the period of record.

(d) Provisions and testing procedures for monitoring water quality.

(e) Historical data for rainfall runoff, basin usage and replenishment, and water conservation activities.

(f) A proposed minimum amount of groundwater extraction below which the requirements of this act will not be applied.

Sec. 603. (a) The agency shall undertake a groundwater management study for future extractions from the basin. As a part of this study, the agency shall determine the hydrologic characteristics of the basin, which shall include all of the following information:

(1) Existing groundwater storage capacity.

(2) Existing groundwater storage.

(3) Existing and projected groundwater use.

(4) A review of the boundaries of the basin.

(5) The average annual variation in storage in existing groundwater storage.

(6) Projected annual rainfall, runoff, and recharge rates.

(7) Long-term recoverable storage, including an estimate of nonrecoverable storage.

(8) Potential extractions and storage programs.

Sec. 604. (a) The plan required pursuant to Section 601 may consider any project alternatives designed to enhance the overall balance of long-term average annual basin replenishment and extractions.

(b) The plan shall investigate options of operating the basin to provide an increased ability to capture, recharge, and maximize reasonable uses by fully utilizing the available groundwater supply. The options may include the conjunctive operation of the basin with Casitas Reservoir. The plan shall recommend alternative methods of managing the basin to achieve the long-term objectives of Section 601.

(c) The plan shall establish a minimum amount of groundwater extraction below which the requirements of this act will not be applied, which amount may be modified from time to time based on the impact on the operation of the agency.

Sec. 605. (a) The studies required in Sections 602 and 603 shall be completed and submitted to the board by January 1, 1993.

(b) The plan required in Section 601 shall be completed and submitted to the board by January 1, 1994.

Article 7. Groundwater Management

Sec. 701. If, after a noticed public hearing and consideration of any relevant investigations, studies, and evidence, including compliance with the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code), the board determines that groundwater management activities are

necessary in order to improve or protect the quantity or quality of groundwater supplies within the basin, the board may, by ordinance, undertake any of the activities authorized by this article. The requirement in this section for compliance with the California Environmental Quality Act does not, and shall not be construed to, limit compliance with that act for other discretionary actions by the board.

Sec. 702. The board may exercise any of the following measures:

(a) Require conservation practices and measures within identified portions of the agency.

(b) Commence and prosecute legal actions to enjoin unreasonable uses or methods of use of water within the agency or outside the agency to the extent those uses or methods of use adversely affect the groundwater supply within the agency.

(c) Conserve and reclaim water within or outside the agency, require conservation practices and measures within the agency, and impose charges upon those within or without the agency benefited by the conservation practices.

Sec. 703. The agency may regulate groundwater replenishment programs and the recapture of supplemental groundwater resulting from those programs within the agency.

Sec. 704. To encourage conjunctive use, the agency may do either or both of the following:

(a) Contract with entities for benefits to areas outside the basin which may result from conservation or conjunctive use practices within the basin and may impose appropriate charges for those benefits.

(b) Contract with groundwater users within the basin to enhance the conjunctive use of groundwater and surface water and compensate groundwater users for the value of those measures.

Sec. 705. To minimize well interference, the agency may do either or both of the following:

(a) Impose spacing requirements or require reasonable mitigation measures relating to the construction of any new extraction facility.

(b) Impose reasonable operating regulations on extraction facilities.

Sec. 706. The agency may control groundwater extractions by regulating, limiting, or suspending extractions from extraction facilities, the construction of new extraction facilities, the enlarging of existing facilities, and the reactivation of abandoned or inactive extraction facilities. Construction of new extraction facilities may be suspended only after consulting with the county water resources department.

Sec. 707. The availability of supplemental water to any operator shall not subject that operator to regulations more restrictive than those imposed on other operators.

Sec. 708. (a) No groundwater shall be exported from within the agency unless the exporter has applied for, and obtained, a permit

from the agency which establishes the quantity of water which may be exported and the conditions of the export. Notwithstanding any conditions specified in the permit, exporters shall be subject to this act.

(b) The agency shall not issue any permit to export groundwater from the agency unless the applicant has established that the temporary surplus is in excess of the amount currently required for reasonable and beneficial uses within the agency, and the board determines that the export would not adversely affect the rights of groundwater users within the agency. The agency shall issue permits for export for time periods, and under terms and conditions, it deems appropriate. All permits shall declare that they are subject to the right of the agency to reduce or suspend exports pursuant to this act.

(c) The agency shall, after published notice and a hearing which discloses evidence of overdraft, or any threat of overdraft, reduce or suspend extractions by exporters regardless of whether a permit to export has been granted pursuant to this act.

(d) The right to store and recapture imported or developed water in the groundwater basin shall be subject to prior permit by the agency. The agency shall issue storage and recapture permits under terms and conditions it deems appropriate and may impose charges therefor. Existing recapture facilities are exempt from this section.

Article 8. Registration of Groundwater Extraction Facilities

Sec. 801. The agency may, by ordinance, require extraction facilities to be registered with the agency within 30 days of notice being given to the operator of the extraction facility.

Sec. 802. The agency may require, by ordinance, that the operator of a registered extraction facility provide the agency annually with all of the following information regarding the extraction facility:

(a) The name and address of the operator of the extraction facility.

(b) The name and address of the owner of the land upon which the extraction facility is located.

(c) A description of the equipment associated with the extraction facility.

(d) The location of the water extraction facility.

(e) The purposes of groundwater use.

Sec. 803. No person may extract groundwater by the use of any extraction facility required to be registered unless the extraction facility has been registered with the agency.

Sec. 804. The agency shall require extraction facilities to be equipped with waterflow measuring devices installed and calibrated by the agency or, at the agency's option, by the extraction facility operator. The agency may, by ordinance, exempt specific extraction facilities from the measuring device requirements.

Sec. 805. No person may extract groundwater by the use of any

extraction facility required to be equipped with a waterflow measuring device unless the extraction facility is so equipped.

Sec. 806. If an extraction facility is equipped with a waterflow measuring device, the record of extraction, as disclosed by the waterflow measuring device, may at the election of the board be presumed to be accurate, and if so presumed, shall be used as the basis for computing the water extraction of the extraction facility in completing the groundwater extraction statement.

Sec. 807. The agency may require proof of the accuracy of the waterflow measuring device from the operator and may, absent adequate proof of accuracy, order the operator, at the operator's sole cost, to have the waterflow measuring device calibrated in a manner acceptable to the agency. If the agency has probable cause to believe that the extraction of groundwater from any extraction facility is in excess of the amount reported in a groundwater extraction statement filed pursuant to Section 810, or if no statement is filed covering an extraction facility, the agency may investigate the extraction of water from the extraction facility.

Sec. 808. No person may intentionally injure, alter, remove, reset, adjust, manipulate, obstruct, or in any manner interfere or tamper with any waterflow measuring device affixed to any extraction facility so that the waterflow measuring device improperly or inaccurately measures and records water extraction.

Sec. 809. The board may, by ordinance, establish reasonable methods to be used in computing the amount of water extracted by exempted extraction facilities.

Sec. 810. (a) The agency may, by ordinance, require the operator of each extraction facility to file, in the form specified by the agency, a groundwater extraction statement that contains, but is not limited to, the following information:

(1) Total extraction in acre-feet of water from the extraction facility.

(2) The crop types or other uses and the acreage served by the extraction facility compared to the number of acres owned or leased.

(3) The method of measuring or computing groundwater extraction.

(4) Water conservation activities.

(b) Each groundwater extraction statement shall be verified by a written declaration under penalty of perjury that the information contained in the statement is true and correct.

(c) The operator of an extraction facility which has been permanently abandoned on or after January 1, 1992, shall give written notice of the abandonment to the agency.

Sec. 811. No person who is required to file a groundwater extraction statement may fail to do so.

Sec. 812. No person, with an intent to evade any requirement of this act, may file a false or fraudulent groundwater extraction statement with the agency.

Article 9. Management Charges

Sec. 901. (a) Each year the board may fix a management charge in accordance with benefit-based criteria to be established by the board, upon the City of Ojai, the Casitas Municipal Water District, the Ojai Water Conservation District, and the Southern California Water Company, for the purpose of paying the costs of initiating, carrying on, and completing any of the powers, purposes, and groundwater management activities for which the agency is organized.

(b) In the aggregate, management charges shall be limited to fifty thousand dollars ($50,000) in the first year and twenty-five thousand dollars ($25,000) in the second year. None of the entities identified in subdivision (a) shall be required to pay more than one-third of the aggregate allowable charges. Management charges in succeeding years, or contributions in excess of the established limits, shall be voluntary and payable at the discretion of each entity identified in subdivision (a).

Sec. 902. Management charges shall be paid in the manner prescribed by ordinance.

Article 10. Management Charges to Property

Sec. 1001. Each year the agency may fix a management charge for the purpose of paying the costs of initiating, carrying on, and completing any of the powers, projects, and purposes for which the agency is organized.

Sec. 1002. Before levying management charges, the board shall, after notice and hearing, find and determine the portion of the agency to be benefited by management and planning activities, the need for management charges for the purpose of paying the cost of these activities, and the amount of the charges to be levied.

Sec. 1003. Management charges may not exceed seven dollars and fifty cents ($7.50) per acre per year for each acre of land, or five dollars ($5.00) for each parcel of land of less than one acre within the agency.

Sec. 1004. Management charges applicable to the territory served by the City of Ojai's corporate franchise, or any other water purveyor within the agency's boundaries, may be collected by the water purveyor if the agency so requests and the water purveyor agrees to do so, and shall be paid to the agency in lieu of collection through the tax bills. The board may exclude portions of the agency or may establish schedules varying the management charges according to the likelihood that the land will benefit, as determined by the board, from improved groundwater management and planning.

Sec. 1005. The management charge may, at the option of the agency, be collected on the tax bills of the county, by the same persons, and at the same time as, together with and not separately

from, county property taxes. In lieu of this election, the agency shall collect management charges at the same time, together with penalties and interest at the same rates, as is prescribed for the collection of county property taxes.

Sec. 1006. The amount of an unpaid management charge, together with any penalty and interest thereon, shall constitute a lien on that land as of the same time and in the same manner as does the tax lien securing county property taxes.

Sec. 1007. The board may fix management charges until January 1, 1995.

Article 11. Groundwater Extraction Charges

Sec. 1101. (a) The agency may, by ordinance, levy groundwater extraction charges on the extraction of groundwater by the use of water extraction facilities within the boundaries of the agency to pay the costs of initiating, carrying on, and completing any of the powers, purposes, and groundwater management activities described in this act, except that the charge shall not exceed the annual costs to the district incurred in carrying out this act and the cost of a reasonable reserve not to exceed 25 percent of the total appropriations in the agency's budget.

(b) Groundwater extraction charges shall be levied only within a zone or zones of benefit of the district which will benefit from the powers, purposes, and groundwater management activities.

(c) The board may establish zones of benefit within the district. Resolutions of the board shall describe the boundaries of the zones of benefit. The board may amend zones of benefit boundaries by annexing property to or by withdrawing property from a zone, or may divide a zone into two or more zones. Resolutions of the board shall describe the boundaries of the amended or divided zones.

Sec. 1102. (a) Before the levy of groundwater extraction charges, the board of directors shall, after notice and hearing, find and determine the activities required to prepare or implement any groundwater management program for the district and to initiate, carry on, or complete any of the other powers and purposes set forth in this act, and the sum of money necessary for the ensuing water year for those activities.

(b) The board shall determine the need and desirability of levying a groundwater extraction charge for the purpose of paying the costs of initiating, carrying on, and completing any of the powers and purposes set forth in this act. The board shall find that the charge is necessary to finance or otherwise support the groundwater management services provided by the district, except that the charge shall not exceed the annual costs to the district incurred in carrying out this act and the cost of a reasonable reserve not to exceed 25 percent of the total appropriations contained in the agency's budget.

Sec. 1103. The groundwater extraction charge rate shall be

uniform for groundwater extraction within the territory of the agency.

Sec. 1104. Groundwater extraction charges shall be calculated on the basis of groundwater extraction statements filed pursuant to Section 810 and the benefit determined pursuant to Section 1101.

Sec. 1105. If any operator of any extraction facility fails to pay the groundwater extraction charge when due, the agency shall charge and collect interest, at the rate of 1½ percent each month, on the delinquent amount of the groundwater extraction charge. In addition, the agency may exercise any of the rights granted pursuant to Article 5 (commencing with Section 75630) of Chapter 3 of Part 9 of Division 21 of the Water Code to collect delinquent groundwater extraction charges.

Sec. 1106. All money collected by the agency pursuant to this article, Article 9 (commencing with Section 901), or Article 10 (commencing with Section 1001), shall be available for expenditure by the agency in carrying out its groundwater management activities.

Sec. 1107. The groundwater extraction charge shall not exceed seven dollars and fifty cents ($7.50) per acre-foot pumped per year.

Article 12. Miscellaneous

Sec. 1201. The Legislature finds and declares that this act, which is applicable only to the Ojai Basin Groundwater Management Agency, is necessary because of the unique and special groundwater management problems in the area included in the agency. It is, therefore, hereby declared that a general law cannot be made applicable to the agency and the enactment of this special law is necessary for the conservation, development, control, and use of that water for the public good and for the protection of life and property therein.

SEC. 2. Section 1 of Chapter 153 of the Statutes of 1974 is amended to read:

Section 1. The Ojai Water Conservation District shall be governed by the Water Conservation Act of 1927 (Chapter 91 of the Statutes of 1927).

SEC. 3. Section 2 of Chapter 153 of the Statutes of 1974 is repealed.

SEC. 4. Section 3 of Chapter 153 of the Statutes of 1974 is amended and renumbered to read:

Sec. 2. The Legislature hereby finds and declares that this act, which is applicable only to the Ojai Water Conservation District, is necessary because of the unique and special water conservation problems in the area included in the district. It is, therefore, hereby declared that a general law cannot be made applicable to the district and the enactment of this special law is necessary for the conservation, development, control, and use of water in the district for the public good and for the protection of life and property

therein.

SEC. 5. Section 4 of Chapter 153 of the Statutes of 1974 is repealed.

SEC. 6. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act or the costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 751

An act to amend Section 2557 of the Streets and Highways Code, relating to highways, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 8, 1991. Filed with Secretary of State October 9, 1991]

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

SECTION 1. Section 2557 of the Streets and Highways Code is amended to read:

2557. (a) Except as provided in subdivisions (c) and (d), the moneys received by each authority pursuant to subdivision (b) of Section 9250.10 of the Vehicle Code shall be used for the implementation, maintenance, and operation of a motorist aid system of call boxes, including the lease or lease-purchase of facilities and equipment for the system, on the portions of the California Freeway and Expressway System and a county expressway system, and on state highway routes that connect segments of these systems, which are located within the county in which the authority is established and over which the Department of the California Highway Patrol or an agency designated by that department has law enforcement responsibility. The Department of Transportation and the Department of the California Highway Patrol shall each review and approve plans for implementation of a motorist aid system proposed for any state highway route and shall be reimbursed by the service authority for all costs incurred.

(b) An authority or any other public entity may construct and maintain, and lease or lease-purchase on terms and conditions it deems appropriate, the facilities of a motorist aid system or it may contract with a private person or entity to do so.

(c) If leases or lease-purchase agreements are entered into pursuant to subdivision (a), or if revenue bonds are issued and sold pursuant to Section 2558, the moneys received by each authority pursuant to subdivision (b) of Section 9250.10 of the Vehicle Code shall be used to the extent necessary to make lease payments or to pay the principal of, and interest on, the amount of bonded indebtedness outstanding, as the case may be. Facilities and equipment acquired through the expenditure of proceeds from the sale of those bonds shall have a useful life at least equal to the term of the bonds.

(d) (1) Any money received by an authority pursuant to subdivision (b) of Section 9250.10 of the Vehicle Code which exceeds the amount needed for full implementation and ongoing costs to maintain and operate the motorist aid system of call boxes, installed pursuant to subdivision (a), may be used for purposes of paragraph (2) and for additional motorist aid services or support, including, but not limited to, the following safety-related projects:

(A) Changeable message signs.

(B) Lighting for call boxes.

(C) Support for traffic operations centers.

(D) Contracting for removal of disabled vehicles from the traveled portion of the right-of-way.

(2) Any amendment to an existing plan for a motorist aid system adopted by an authority for any state highway route shall, prior to implementation, be submitted to the Department of Transportation and the Department of the California Highway Patrol for review and approval and shall not be implemented until so reviewed and approved. The authority shall reimburse each department for the costs of that review.

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

This act will make funds available for additional motorist aid services and provide for changes regarding existing plans for a motorist aid system, thereby enhancing the safety of the motoring public. In order to accomplish its purposes at the earliest possible time, it is necessary for this bill to take effect immediately.

CHAPTER 752

An act to amend Sections 40095, 40128, 99301.5, 130052, and 130109 of, to add Sections 40163, 130010, 130108.5, 130240, 130240.1, and 130241 to, and to repeal Section 40087 of, the Public Utilities Code, relating to transportation.

[Approved by Governor October 8, 1991 Filed with Secretary of State October 9, 1991.]

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

SECTION 1. Section 40087 of the Public Utilities Code is repealed.

SEC. 1.5. Section 40095 of the Public Utilities Code is amended to read:

40095. The board may appoint and fix the salary of a general manager who shall have full charge of the acquisition, construction, maintenance, and operation of the facilities of the district, and of the administration of the business affairs of the district.

SEC. 2. Section 40128 of the Public Utilities Code is amended to read:

40128. The district shall take the necessary steps to obtain coverage for the district and its employees under Subchapter II of the federal Social Security Act, as amended, and the related provisions of the Federal Insurance Contributions Act, as amended.

However, the district is not required to provide coverage under Subchapter II of the federal Social Security Act, as amended, for employees who are members of the Orange County Employees Retirement System. Notwithstanding Section 31557 of the Government Code, administrative and professional employees may be admitted to membership in the Orange County Employees Retirement System without making membership applicable to all employees of the district. The board, by resolution, shall determine which employees are employed in administrative and professional classifications.

SEC. 3. Section 40163 is added to the Public Utilities Code, to read:

40163. All the provisions of the County Transportation Commissions Act (Division 12 (commencing with Section 130000)), regarding the powers and functions of the Orange County Transportation Authority shall be equally applicable to the Orange County Transit District as if set forth herein, and shall be in addition to the powers and functions set forth in this part. The board of directors shall determine which provisions are applicable to the conduct of the district.

SEC. 4. Section 99301.5 of the Public Utilities Code is amended to read:

99301.5. Notwithstanding Sections 99232, 99233, and 99301, the

Orange County Transportation Commission may direct the transportation planning agency to allocate interest accruing from money retained for the development of transit in the local transportation fund of the County of Orange, to the County of Orange, to cities within the county, to the Department of Transportation, to the Orange County Transit District, and to the Orange County Transportation Commission to expend for transportation purposes within the County of Orange, as determined by the Orange County Transportation Commission, including those which could be funded by motor vehicle fuel taxes pursuant to Section 1 of Article XIX of the California Constitution. The commission, when determining the purposes for which the money is to be expended, shall ensure that, to the extent possible, at least one-half of the money is allocated to local street and road projects.

SEC. 5. Section 130010 is added to the Public Utilities Code, to read:

130010. Except as otherwise provided in subdivision (c) of Section 130109, all provisions of the Orange County Transit District Act of 1965 (Part 4 (commencing with Section 40000) of Division 10), regarding employer-employee relations, employee benefits, and conditions of employment for the Orange County Transit District are equally applicable to the Orange County Transportation Authority as if set forth in this division, and govern employer-employee relations, employee benefits, and conditions of employment for the Orange County Transportation Authority.

SEC. 6. Section 130052 of the Public Utilities Code is amended to read:

130052. (a) The Orange County Transportation Commission shall be known as the Orange County Transportation Authority and shall be governed by a board of directors consisting of 12 members appointed as follows:

(1) Four members of the Orange County Board of Supervisors appointed by that board. Terms of office of the four members of the board of supervisors shall be determined by the board of supervisors. A board of supervisors member's term shall cease if he or she no longer serves as a member of the board of supervisors. The board shall appoint a fifth supervisor who shall be an alternate member of the authority. The alternate member may serve and vote in place of any supervisor on the authority who is absent or who disqualifies himself or herself from participating in a meeting of the authority. If the office of a regular county member becomes vacant, the alternate member may serve and vote in place of the former regular county member until the appointment and qualification of a regular county member to fill the vacancy.

(2) Six members appointed by the Orange County City Selection Committee. Each member appointed by the city selection committee shall be a mayor or a city council member serving within the county. In the selection of city members, consideration shall be given to the achievement of geographical and population balance

among the members selected. Five of the city members shall be selected so that each of the five shall reside in a different supervisorial district. Terms of office of the six city members shall be determined by the city selection committee. A city member's term shall cease if he or she no longer serves as a member of a city council or as the mayor of a city. The city selection committee shall appoint a mayor or city council member serving within the county who shall be an alternate member of the authority. The alternate member may serve and vote in place of the mayor or city council member on the authority who is absent or who disqualifies himself or herself from participating in a meeting of the authority. If the office of a regular city member becomes vacant, the alternate member may serve and vote in place of the former regular city member until the appointment and qualification of a regular city member to fill the vacancy. The term of office of the alternate city member shall be determined by the city selection committee.

(3) One member appointed by a majority vote of the other 10 voting members of the authority, which member shall be a resident of Orange County who is not then serving, and has not within the last four years served, as an elected official of a city within the county or as an elected official of the county. The member shall serve for a term of four years. When appointing a public member, the authority may also appoint one alternate public member who may serve and vote in place of a regular public member who is absent or disqualifies himself or herself from participating in a meeting of the authority. The alternate public member shall serve for a term of four years. If the office of a regular public member becomes vacant, the alternate member may serve and vote in place of the former regular public member until the appointment and qualification of a regular public member to fill the vacancy.

(4) The Director of Transportation District 12, who shall be appointed by the Governor as a nonvoting member. The member shall serve for a term of four years.

(b) If two or more members are absent or disqualify themselves from participating in a meeting of the authority, any alternate member who is authorized to serve and vote in the place of a member shall only have one vote.

SEC. 7. Section 130108.5 is added to the Public Utilities Code, to read:

130108.5. Notwithstanding Section 130108, the Board of Directors of the Orange County Transportation Authority may allow members of the board necessary traveling and personal expenses incurred in performance of duties authorized by the board and may allow members per diem compensation at the maximum rate of one hundred dollars ($100) per day, not to exceed five hundred dollars ($500) in any calendar month, for attending board meetings and for performance of any other services for the authority as authorized by the board.

SEC. 8. Section 130109 of the Public Utilities Code is amended to

read:

130109. (a) Except as otherwise provided in subdivision (b), the commission shall enter into a contract with the Board of Administration of the Public Employees' Retirement System, and the board shall enter into such a contract, to include all of the employees of the commission into that retirement system, and the employees shall be entitled to substantially similar health benefits as are state employees pursuant to Part 5 (commencing with Section 22751) of Division 5 of Title 2 of the Government Code.

(b) For purposes of providing retirement benefits, the commission may contract with the retirement system that the employees of the county in which the commission is located are members of in lieu of contracting with the board.

(c) Each person employed by the Orange County Transportation Commission on January 1, 1992, may, no later than February 1, 1992, elect to either remain a member of the Public Employees' Retirement System or become a member of the Orange County Employees Retirement System. All persons who become employed by the commission after February 1, 1991, shall be members of the Orange County Employees Retirement System.

SEC. 9. Section 130240 is added to the Public Utilities Code, to read:

130240. The Orange County Transportation Authority may acquire, construct, develop, lease, jointly develop, own, operate, maintain, control, use, jointly use, or dispose of rights-of-way, rail lines, monorails, guideways, buslines, stations, platforms, switches, yards, terminals, parking lots, air rights, land rights, development rights, entrances and exits, and any and all other facilities for, incidental to, necessary for, or convenient for transit service, including, but not limited to, facilities and structures physically or functionally related to transit service, within or partly without the county, underground, upon, or above the ground and under, upon or over public streets, highways, bridges, or other public ways or waterways, together with all physical structures necessary for, incidental to, or convenient for the access of persons and vehicles thereto, and may acquire, lease, sell, or otherwise contract with respect to any interest in or rights to the use or joint use of any or all of the foregoing. However, installations on state freeways are subject to the approval of the Department of Transportation and installations in other state highways are subject to Article 2 (commencing with Section 670) of Chapter 3 of Division 1 of the Streets and Highways Code.

SEC. 10. Section 130240.1 is added to the Public Utilities Code, to read:

130240.1. (a) The Orange County Transportation Authority may enter into agreements for the joint use or joint development of any property or rights by the authority and any city, public agency, or public utility operating transit facilities or nontransit facilities, or both, or any other person, firm, corporation, association,

organization, or other entity, public or private, either, in whole or in part, within or outside the county, for the joint use or development of any property of the authority or of the city, public agency, public utility, person, firm, corporation, association, organization, or other entity, public or private, for the establishment of through routes, joint fares, station cost-sharing, connector fees, or land, air, or development rights, sales or leasing, transfer of passengers, pooling arrangements, or for any other purpose necessary for, incidental to, or convenient for the full exercise of the powers granted in this chapter. As to any service which the authority is authorized to perform pursuant to this chapter, the authority may contract for the performance of the service by any city, county, or public utility the territory of which is, in whole or in part, within the county.

(b) "Joint development" includes, but is not limited to, agreements with any person, firm, corporation, association, organization, or other entity, public or private, to develop or to engage in the planning, financing, construction, or operation of authority facilities or development projects adjacent, or physically or functionally related, to authority facilities.

(c) "Nontransit facilities," as used in this section, includes any land, buildings, or equipment, or interest therein, which is used primarily for the production of transit revenue not arising from the operation of a transit system.

SEC. 11. Section 130241 is added to the Public Utilities Code, to read:

130241. All the provisions of the Orange County Transit District Act of 1965 (Part 4 (commencing with Section 40000) of Division 10), regarding the powers and functions of the Orange County Transit District shall be equally applicable to the Orange County Transportation Authority as if set forth herein, and shall be in addition to the powers and functions set forth in this division. The authority shall determine which provisions are applicable to the authority.

SEC. 12. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because this act is in accordance with the request of a local agency or school district which desired legislative authority to carry out the program specified in this act. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 753

An act to amend Sections 436.2, 436.4, and 436.28 of the Health and Safety Code, relating to health facilities, and making an appropriation therefor.

[Approved by Governor October 8, 1991. Filed with Secretary of State October 9, 1991]

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

SECTION 1. Section 436.2 of the Health and Safety Code is amended to read:

436.2. Unless the context otherwise requires, the definitions in this section govern the construction of this chapter and of Section 32127.2.

(a) "Bondholder" means the legal owner of a bond or other evidence of indebtedness issued by a political subdivision or a nonprofit corporation.

(b) "Borrower" means a political subdivision or nonprofit corporation which has secured or intends to secure a loan for the construction of a health facility.

(c) "Construction, improvement, or expansion" or "construction, improvement, and expansion" includes construction of new buildings, expansion, modernization, renovation, remodeling and alteration of existing buildings, acquisition of existing buildings or health facilities, and initial or additional equipping of any of these buildings.

In connection therewith, "construction, improvement, or expansion" or "construction, improvement, and expansion" includes the cost of construction or acquisition of all structures, including parking facilities, real or personal property, rights, rights-of-way, the cost of demolishing or removing any buildings or structures on land so acquired, including the cost of acquiring any land to which the buildings or structures may be moved, the cost of all machinery and equipment, financing charges, interest (prior to, during and for a period after completion of the construction), provisions for working capital, reserves for principal and interest and for extensions, enlargements, additions, replacements, renovations and improvements, cost of engineering, financial and legal services, plans, specifications, studies, surveys, estimates of cost and of revenues, administrative expenses, expenses necessary or incident to determining the feasibility or practicability of constructing or incident to the construction; or the financing of the construction or acquisition.

(d) "Council" means the Advisory Health Council.

(e) "Debenture" means any form of written evidence of indebtedness issued by the State Treasurer pursuant to this chapter, as authorized by Section 4 of Article XVI of the California

Constitution.

(f) "Fund" means the Health Facility Construction Loan Insurance Fund.

(g) "Health facility" means any facility providing or designed to provide services for the acute, convalescent, and chronically ill and impaired, including but not limited to public health centers, community mental health centers, facilities for the developmentally disabled, nonprofit community care facilities that provide care, habilitation, rehabilitation or treatment to developmentally disabled persons, facilities for the treatment of chemical dependency, including a community care facility, licensed pursuant to Chapter 3 (commencing with Section 1500) of Division 2, a clinic, as defined pursuant to Chapter 1 (commencing with Section 1200) of Division 2, an alcoholism recovery facility, defined pursuant to Section 11834.11, and a structure located adjacent or attached to another type of health facility and which is used for storage of materials used in the treatment of chemical dependency, and general tuberculosis, mental, and other types of hospitals and related facilities, such as laboratories, outpatient departments, extended care, nurses' home and training facilities, offices and central service facilities operated in connection with hospitals, diagnostic or treatment centers, extended care facilities, nursing homes, and rehabilitation facilities. "Health facility" also means an adult day health center and a multilevel facility. Except for facilities for the developmentally disabled, facilities for the treatment of chemical dependency, or a multilevel facility, or as otherwise provided in this subdivision, "health facility" does not include any institution furnishing primarily domiciliary care.

"Health facility" also means accredited nonprofit work activity programs as defined in subdivision (e) of Section 19352 and Section 19355 of the Welfare and Institutions Code, and nonprofit community care facilities as defined in Section 1502, excluding foster family homes, foster family agencies, adoption agencies, and residential care facilities for the elderly.

Unless the context dictates otherwise, "health facility" includes a political subdivision of the state or nonprofit corporation which operates a facility included within the definition set forth in this subdivision.

(h) "Office" means the Office of Statewide Health Planning and Development.

(i) "Lender" means the provider of a loan and its successors and assigns.

(j) "Loan" means money or credit advanced for the costs of construction or expansion of the health facility, and includes both initial loans and loans secured upon refinancing and may include both interim, or short-term loans, and long-term loans. A duly authorized bond or bond issue, or an installment sale agreement, may constitute a "loan."

(k) "Maturity date" means the date on which the loan

indebtedness would be extinguished if paid in accordance with periodic payments provided for by the terms of the loan.

(*l*) "Mortgage" means a first mortgage on real estate. "Mortgage" includes a first deed of trust.

(m) "Mortgagee" includes a lender whose loan is secured by a mortgage. "Mortgagee" includes a beneficiary of a deed of trust.

(n) "Mortgagor" includes a borrower, a loan to whom is secured by a mortgage, and the trustor of a deed of trust.

(o) "Nonprofit corporation" means any corporation formed under or subject to the Nonprofit Public Benefit Corporation Law (Part 2 (commencing with Section 5110) of Division 2 of Title 1 of the Corporations Code) that is organized for the purpose of owning and operating a health facility and that also meets the requirements of Section 501 (c) (3) of the Internal Revenue Code.

(p) "Political subdivision" means any city, county, city and county, joint powers entity, local hospital district, or the California Health Facilities Authority.

(q) "Project property" means the real property upon which the health facility is, or is to be, constructed, improved, or expanded, and also means the health facility and the initial equipment in such health facility.

(r) "Public health facility" means any health facility which is or will be constructed for and operated and maintained by any city, county, city and county, or local hospital district.

(s) "Adult day health center" means a facility defined under subdivision (b) of Section 1570.7, which provides adult day health care, as defined under subdivision (a) of Section 1570.7.

(t) "Multilevel facility" means an institutional arrangement where a residential facility for the elderly is operated as a part of, or in conjunction with, an intermediate care facility, a skilled nursing facility, or a general acute care hospital. "Elderly," for the purposes of this subdivision, means a person 62 years of age or older.

SEC. 2. Section 436.4 of the Health and Safety Code is amended to read:

436.4. The office shall implement the loan insurance program for the construction, improvement, and expansion of public and nonprofit corporation health facilities so that, in conjunction with all other existing facilities, the necessary physical facilities for furnishing adequate health facility services will be available to all the people of the state.

The office shall make an inventory of all existing health facilities and shall survey the need for construction, improvement, and expansion of public and nonprofit corporation health facilities and, on the basis of that inventory and survey, shall develop a state plan. The office shall submit copies of the state plan to the Senate Health and Human Services, Senate Appropriations, Assembly Health, and Assembly Ways and Means Committees.

The health facility construction loan insurance program shall provide for health facility distribution throughout the state in a

manner that will make all types of health facility services reasonably accessible to all persons in the state according to the state plan.

In performing its duties under this section, the office may utilize the state plan developed pursuant to Section 439.3.

SEC. 3. Section 436.28 of the Health and Safety Code is amended to read:

436.28. (a) The office's authorization to insure health facility construction, improvement, and expansion loans under this chapter shall be limited to a total of not more than two billion five hundred million dollars ($2,500,000,000). However, when the office completes the state plan as is required by Section 436.4, and the plan is approved by the Governor and submitted to the legislative committees referred to in that section by December 31, 1992, and the plan includes a finding that the limit should be further increased, then the limit shall be increased on January 1, 1993, from two billion five hundred million dollars ($2,500,000,000) to three billion dollars ($3,000,000,000).

(b) Notwithstanding the limitation in subdivision (a), the office may exceed the specific dollar limitation in any instance of refinancing a preexisting office-guaranteed loan, if the refinancing results in savings to the health facility and increases the probability that a loan can be repaid.

CHAPTER 754

An act to amend Section 4108 of the Public Contract Code, relating to public contracts.

[Approved by Governor October 8, 1991 Filed with Secretary of State October 9, 1991.]

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

SECTION 1. Section 4108 of the Public Contract Code is amended to read:

4108. (a) It shall be the responsibility of each subcontractor submitting bids to a prime contractor to be prepared to submit a faithful performance and payment bond or bonds if so requested by the prime contractor.

(b) In the event any subcontractor submitting a bid to a prime contractor does not, upon the request of the prime contractor and at the expense of the prime contractor at the established charge or premium therefor, furnish to the prime contractor a bond or bonds issued by an admitted surety wherein the prime contractor shall be named the obligee, guaranteeing prompt and faithful performance of the subcontract and the payment of all claims for labor and materials furnished or used in and about the work to be done and performed under the subcontract, the prime contractor may reject

the bid and make a substitution of another subcontractor subject to Section 4107.

(c) (1) The bond or bonds may be required under this section only if the prime contractor in his or her written or published request for subbids clearly specifies the amount and requirements of the bond or bonds.

(2) If the expense of the bond or bonds required under this section is to be borne by the subcontractor, that requirement shall also be specified in the prime contractor's written or published request for subbids.

(3) The prime contractor's failure to specify bond requirements, in accordance with this subdivision, in the written or published request for subbids shall preclude the prime contractor from imposing bond requirements under this section.

CHAPTER 755

An act to amend Section 22513 of the Vehicle Code, relating to vehicles.

[Approved by Governor October 8, 1991 Filed with Secretary of State October 9, 1991]

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

SECTION 1. Section 22513 of the Vehicle Code is amended to read:

22513. (a) Except as provided in subdivision (b) or (c), the owner or operator of a tow truck who complies with the requirements of this code relating to tow trucks may stop or park the tow truck upon a highway for the purpose of rendering assistance to a disabled vehicle.

(b) It is a misdemeanor for the owner or operator of a tow truck to stop at the scene of an accident or near a disabled vehicle for the purpose of soliciting an engagement for towing services, either directly or indirectly, or to furnish any towing services, unless summoned to the scene, requested to stop, or flagged down by the owner or operator of a disabled vehicle or requested to perform the service by a law enforcement officer or public agency pursuant to that agency's procedures.

(c) It is a misdemeanor for the owner or operator of a tow truck to move any vehicle from a highway, street, or public property without the express authorization of the owner or operator of the vehicle or a law enforcement officer or public agency pursuant to that agency's procedures, when the vehicle has been left unattended or when there is an injury as the result of an accident.

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

(1) A vehicle owned by, operated by, or under contract to, a

motor club, as defined by Section 12142 of the Insurance Code, which stops to provide services for which compensation is neither requested nor received, if those services do not include towing other than that which may be necessary to remove the vehicle to the nearest safe shoulder. The owner or operator of that vehicle may contact a law enforcement agency or other public agency on behalf of a motorist, but may not refer a motorist to a tow truck owner or operator, unless the motorist is a member of the motor club, the motorist is referred to a tow truck owner or operator under contract to the motor club, and, if there is a dispatch facility which services the area and is owned or operated by the motor club, the referral is made through that dispatch facility.

(2) A tow truck operator employed by a law enforcement agency or other public agency.

(3) A tow truck owner or operator acting under contract with a law enforcement agency or other public agency to abate abandoned vehicles, or to provide towing service or emergency road service to motorists while involved in freeway service patrol operations, to the extent authorized by law.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 756

An act to amend Sections 37670, 37671, 41800, 41972, 42250.1, 42260, 42262, 42263, 42266, 42268, 45283, 46201, 46300.4, 46380, 46600, 48412, 48915.1, 52501.5, 52610.5, 56361, 56430, 56441.8, and 56738 of, to repeal Sections 46015, 46350, 46364, 48221, and 51747.6 of, to repeal Article 1 (commencing with Section 37400), Article 3 (commencing with Section 37420), and Article 4 (commencing with Section 37430) of Chapter 3 of Part 22 of, to repeal Article 2 (commencing with Section 46320) of Chapter 3 of Part 26 of, and to repeal Chapter 4 (commencing with Section 37500) of Part 22 of, the Education Code, and to amend Item 6110-161-890 of Section 2.00 of the Budget Act of 1991, relating to education, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 9, 1991. Filed with Secretary of State October 9, 1991.]

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

SECTION 1. Article 1 (commencing with Section 37400) of Chapter 3 of Part 22 of the Education Code is repealed.

SEC. 2. Article 3 (commencing with Section 37420) of Chapter 3 of Part 22 of the Education Code is repealed.

SEC. 3. Article 4 (commencing with Section 37430) of Chapter 3 of Part 22 of the Education Code is repealed.

SEC. 4. Chapter 4 (commencing with Section 37500) of Part 22 of the Education Code is repealed.

SEC. 5. Section 37670 of the Education Code is amended to read:

37670. (a) Notwithstanding any other provision of law, any school district may operate a program of multitrack year-round scheduling at one or more schools within the district for as few as 163 days in each fiscal year, so long as the number of annual instructional minutes is not less than that of schools of the same grade levels utilizing the traditional school calendar.

(b) All certificated employees under this program, except those serving under an administrative or supervisorial credential and who are assigned full time to a school in positions requiring qualifications for certification, shall work the same number of days and shall increase the number of minutes worked daily on a uniform basis.

(c) A program conducted pursuant to this section shall be eligible for apportionment from the State School Fund.

SEC. 6. Section 37671 of the Education Code is amended to read:

37671. Schools in programs conducted pursuant to Section 37670 shall be exempted from the requirements of Section 37202.

SEC. 7. Section 41800 of the Education Code is amended to read:

41800. The Superintendent of Public Instruction shall allow to each high school district one hundred twenty dollars ($120) for each unit of average daily attendance in the district during the fiscal year as computed under subdivision (a) of Section 41601, subject to the provisions of Section 41608, but not less than two thousand four hundred dollars ($2,400) shall be allowed to any high school district, to be known as basic state aid.

The Superintendent of Public Instruction shall exclude from the computation of allowances provided by this section the average daily attendance during the fiscal year of adults, as adults are defined in Section 52610, and of inmates of any state penal institution for adults or of any city, county, or city and county jail, road camp or farm for adults.

SEC. 8. Section 41972 of the Education Code is amended to read:

41972. Balances available from any appropriation for apportionments from Section A of the State School Fund and funds provided by subdivision (c) of Section 14002, or provided by any other provision of law in lieu of those sections, shall be used to restore

any reductions in apportionments to elementary, high, and unified school districts and county superintendents of schools as follows:

(a) First, for revenue limits computed pursuant to Sections 2558 and 42238.

(b) Second, for special education computed pursuant to Chapter 7 (commencing with Section 56700) of Part 30.

(c) Third, for home-to-school transportation computed pursuant to Section 41856 or, commencing with the 1984–85 fiscal year, Article 10 (commencing with Section 41850) of Chapter 8.

Any remaining balances otherwise transferable under subdivisions (b) and (c) of Section 14002 shall revert to the General Fund.

SEC. 9. Section 42250.1 of the Education Code is amended to read:

42250.1. (a) From funds appropriated by the Legislature for this purpose for any fiscal year, the board shall allocate to school districts selected by the board pursuant to this section, funding for the expenses of air-conditioning equipment and insulation materials, and for the costs of installing the equipment and materials, for schools operating in the current fiscal year or planning to operate in the subsequent fiscal year on a year-round or continuous basis pursuant to Chapter 3 (commencing with Section 37400), Chapter 4 (commencing with Section 37500), or Chapter 5 (commencing with Section 37600) of Part 22.

(b) The State Allocation Board shall allocate the funds appropriated under subdivision (a) only to those school districts in which a high percentage of the pupils, or a significant number of the pupils, are enrolled in the current fiscal year or will be enrolled in the subsequent fiscal year in year-round or continuous schools as described in subdivision (a). The board shall grant preference in the allocation of those funds to those year-round or continuous schools that are both situated in climates that require air-conditioning and insulation during June, July, and August, and have a high percentage of overcrowding of pupils. In addition, all schools participating in the demonstration program provided pursuant to Chapter 2.5 (commencing with Section 37300) of Part 22 and satisfying the criteria set forth in this subdivision shall be eligible to receive, and given priority for, the maximum allocation of funds under this section.

(c) Whenever a school district has received an allocation pursuant to this section for a school that was scheduled to begin operating year-round in the subsequent fiscal year but that did not begin operating year-round in that fiscal year, the school district shall repay the amount allocated with interest to the State School Building Lease-Purchase Fund.

SEC. 10. Section 42260 of the Education Code is amended to read:

42260. (a) There is hereby established the Year-Round School Grant Program to provide financial assistance to both school districts implementing new multitrack year-round educational programs and school districts that currently operate those programs.

(b) The grant program shall be administered by the Superintendent of Public Instruction. The superintendent shall award grants separately under this article for the implementation of multitrack year-round school programs and for year-round operations purposes.

(c) The Superintendent of Public Instruction shall establish criteria for the selection of implementation grant applicants to be funded. The criteria shall include, but not be limited to, all of the following:

(1) Severity of school district overcrowding in excess of State Allocation Board or court-mandated pupil loading standards.

(2) The amount of overcrowding that would be alleviated by the implementation of multitrack year-round educational programs, as proposed in the school district's grant application proposal.

(3) The lack of other educationally sound alternatives to multitrack year-round educational programs to reduce overcrowding in the applicant school district.

SEC. 11. Section 42262 of the Education Code is amended to read:

42262. (a) Year-round school grants awarded under this article for purposes of the implementation of multitrack year-round school programs shall be expended for the following purposes:

(1) Planning, including community activities, necessary for that implementation.

(2) One-time minor capital outlay and equipment associated with converting school facilities to multitrack year-round operation.

(3) Deferred maintenance on facilities proposed for multitrack year-round operation.

(4) Other necessary activities associated with conversion to multitrack year-round operations, including, but not limited to, curriculum revision and scheduling changes and staff development.

(b) These implementation grants are available on a one-time basis for each new multitrack year-round schoolsite, subject to application approval, in an amount up to twenty-five dollars ($25) per pupil currently enrolled in the site planned for year-round operation or for a newly constructed school, an amount up to twenty-five dollars ($25) per pupil enrolled as if the school were to operate on a traditional nine-month school year basis. The superintendent may approve all or any portion of an application for an implementation grant, as described in subdivision (a) of this section, up to a maximum of one hundred thousand dollars ($100,000) per schoolsite. If the applications approved exceed the appropriations available for this purpose, the amount per pupil shall be prorated by an equal amount.

SEC. 12. Section 42263 of the Education Code is amended to read:

42263. (a) Commencing in the 1990–91 fiscal year, year-round school grants, in addition to those grants authorized under Section 42262, shall be awarded annually for the operation of multitrack year-round education programs to school districts that meet the criteria specified in this section, in addition to the criteria otherwise

applicable under this article.

(b) For each fiscal year, for each schoolsite for which a school district applies for funding under this article, the district shall certify the number of pupils in excess of the capacity of the schoolsite, as determined by State Allocation Board or court-mandated pupil loading standards, for which the district elects to claim funding under this article. A school district shall be eligible for funding under this section only as to any schoolsite for which the pupil population certified by the district exceeds the capacity of the schoolsite by not less than 5 percent.

(c) To the extend funding is made available for the purposes of this section, the Superintendent of Public Instruction shall allocate to an applicant school district, for each schoolsite that qualifies for funding under subdivision (b), an amount equal to the district's share of the product of the statewide average cost avoided per pupil, as established under subdivision (e), and the number of pupils certified by the district under subdivision (b). For purposes of this subdivision, a district's share shall be determined according to the percentage by which the number of certified pupils reflects an increase in the capacity of the schoolsite, as follows:

	District's Share
1. Less than 5%	0%
2. Equal to or greater than 5% but less than 10%	50%
3. Equal to or greater than 10% but less than 15%	67%
4. Equal to or greater than 15% but less than 20%	75%
5. Equal to or greater than 20% but less than 25%	85%
6. Equal to or greater than 25%	90%

(d) (1) The State Allocation Board shall calculate the statewide average cost avoided per pupil under Chapter 22 (commencing with Section 17700) of Part 10 through the operation of school facilities on a multitrack year-round basis, based on the following school facilities cost components:

(A) The cost of facilities construction.

(B) The cost of land acquisition.

(C) Relocation costs in connection with land acquisition.

(D) State costs incurred as a result of interest that would be paid by the state for debt service on state general obligation bond financing to construct new school facilities under Chapter 22 (commencing with Section 17700) of Part 10.

(2) The calculation of costs under subparagraphs (B) and (C) of paragraph (1) shall exclude data from the lowest quartile and the highest quartile.

(3) The State Allocation Board shall calculate the statewide

average cost avoided per pupil, pursuant to this subdivision, on the basis of the 1990–91 and 1991–92 fiscal years and every two-year period thereafter. No later than December 1, 1992, and biennially thereafter, the board shall report to the Legislature the result of its calculation for the prior two-year period.

(e) For the 1990–91 and 1991–92 fiscal years, the "statewide average cost avoided per pupil," for purposes of this section, shall be one thousand one hundred fifty-one dollars ($1,151). For the 1992–93 fiscal year, and each fiscal year thereafter, the "statewide average cost avoided per pupil" shall be established by the statute that appropriates funding for the purposes of this section for that fiscal year.

(f) If the applications approved exceed the appropriations available for this purpose, additional funds shall be requested to cover all eligible claims. Until additional funds become available, funding per pupil in excess of capacity for the schoolsite shall be prorated by dividing the total dollar amount available by the total dollar amount of eligible claims and multiplying each dollar claimed by the resulting percentage factor.

SEC. 13. Section 42266 of the Education Code is amended to read:

42266. (a) The funding allocated by the Superintendent of Public Instruction pursuant to Section 42263 shall be allocated in accordance with paragraph (5) of subdivision (a) of Section 14041.

(b) Commencing with the 1991–92 fiscal year, the entire amount of funding to be allocated pursuant to Section 42262 for each fiscal year shall be allocated no later than December 31 of that fiscal year.

SEC. 14. Section 42268 of the Education Code is amended to read:

42268. (a) The Superintendent of Public Instruction shall annually report to the State Allocation Board, for the purposes of Section 17746.8, the number of pupils in excess of capacity certified by the district pursuant to subdivision (b) of Section 42263, or the number of pupils prescribed by subdivision (b) of this section, whichever is greater.

(b) In the first year of funding for a schoolsite under Section 42263, if the number of pupils certified in excess of the capacity of the schoolsite is less than 5 percent of capacity, the number of pupils reported by the superintendent shall be equal to 5 percent of capacity. In the second year of that funding, if the number of pupils certified in excess of the capacity of the schoolsite is less than 10 percent of capacity, the number of pupils reported by the superintendent shall be equal to 10 percent of capacity. In the third, and each subsequent year of that funding, if the number of pupils certified in excess of the capacity of the schoolsite is less than 15 percent of capacity, the number of pupils reported by the superintendent shall be equal to 15 percent of capacity.

(c) Notwithstanding subdivision (a), for a schoolsite for which a school district received year-round incentive funding for the 1989–90 fiscal year pursuant to former Section 42250.3, the superintendent shall report for the 1991–92 fiscal year the number of pupils equal to

10 percent of capacity of the site, or the number of pupils in excess of capacity certified pursuant to subdivision (b) of Section 42263, whichever is greater and for the 1992–93 fiscal year the number of pupils equal to 15 percent of capacity of the site, or the number of pupils in excess of capacity claimed pursuant to subdivision (b) of Section 42263, whichever is greater.

SEC. 15. Section 45283 of the Education Code is amended to read:

45283. In any school district which has geographical boundaries encompassing more than 200 square miles and which divides the area it serves into smaller areas for assignment of classified personnel, when an eligibility list is exhausted in one assignment area but there are available eligibles in another assignment area, an area eligibility list may be established for the assignment area in which the eligibility list is exhausted. The life of the new area eligibility list shall be not less than one year. The life of that list may be extended for up to an additional year at the discretion of the personnel commission. Seniority for the purpose specified in Section 45308 shall continue to be districtwide.

SEC. 16. Section 46015 of the Education Code is repealed.

SEC. 17. Section 46201 of the Education Code is amended to read:

46201. (a) In each of the 1984–85, 1985–86, and 1986–87 fiscal years, for each school district that certifies to the Superintendent of Public Instruction that it offers at least the amount of instructional time specified in this subdivision at a grade level or levels, the Superintendent of Public Instruction shall determine an amount equal to twenty dollars ($20) per unit of current year second principal apportionment regular average daily attendance in kindergarten and grades 1 to 8, inclusive, and forty dollars ($40) per unit of current year second principal apportionment regular average daily attendance in grades 9 to 12, inclusive. This section shall not apply to adult average daily attendance, the average daily attendance for pupils attending summer school, alternative school, regional occupational centers and programs, continuation high schools, or opportunity schools, and the attendance of pupils while participating in community college or independent study programs.

(1) In the 1984–85 fiscal year, for kindergarten and each of grades 1 to 12, inclusive, the sum of subparagraphs (A) and (B):

(A) The number of instructional minutes offered at that grade level in the 1982–83 fiscal year.

(B) One-third of the difference between the number of minutes specified for that grade level in paragraph (3) and the number of instructional minutes offered at that grade level in the 1982–83 fiscal year.

(2) In the 1985–86 fiscal year, for kindergarten and each of grades 1 to 12, inclusive, the sum of subparagraphs (A) and (B):

(A) The number of instructional minutes offered at that grade level in the 1982–83 fiscal year.

(B) Two-thirds of the difference between the number of minutes specified for that grade level in paragraph (3) and the number of

instructional minutes offered at that grade level in the 1982–83 fiscal year.

(3) In the 1986–87 fiscal year:

(A) Thirty-six thousand minutes in kindergarten.

(B) Fifty thousand four hundred minutes in grades 1 to 3, inclusive.

(C) Fifty-four thousand minutes in grades 4 to 8, inclusive.

(D) Sixty-four thousand eight hundred minutes in grades 9 to 12, inclusive.

(4) In any fiscal year, each school district that receives an apportionment pursuant to subdivision (a) for average daily attendance in grades 9 to 12, inclusive, shall offer a program of instruction that allows each student to receive at least 24 course years of instruction, or the equivalent, during grades 9 to 12, inclusive.

(5) For any schoolsite at which programs are operated in more than one of the grade levels enumerated in subparagraph (B) or (C) of paragraph (3), the school district may calculate a weighted average of minutes for those grade levels at that schoolsite for purposes of making the certification authorized by this subdivision.

(b) If any of the amounts of instructional time specified in paragraph (3) of subdivision (a) is a lesser number of minutes for that grade level than actually provided by the district in the same grade in the 1982–83 fiscal year, the 1982–83 fiscal year number of minutes for that grade level shall instead be the requirement for the purposes of subdivision paragraphs (1), (2), and (3) of (a).

(c) For any school district that receives an apportionment pursuant to subdivision (a) in the 1984–85 fiscal year and that reduces the amount of instructional time offered below the minimum amounts specified in paragraph (1) of subdivision (a) in the 1985–86 fiscal year or any fiscal year thereafter, the Superintendent of Public Instruction shall reduce the base revenue limit per unit of average daily attendance for the fiscal year in which the reduction occurs by an amount attributable to the increase in the 1985–86 fiscal year base revenue limit per unit of average daily attendance pursuant to paragraph (4) of subdivision (b) of Section 42238, as adjusted in the 1985–86 fiscal year and fiscal years thereafter.

For each school district that receives an apportionment pursuant to subdivision (a) in the 1985–86 fiscal year and that reduces the amount of instructional time offered below the minimum amounts specified in paragraph (2) of subdivision (a) in the 1986–87 fiscal year or any fiscal year thereafter, the Superintendent of Public Instruction shall reduce the base revenue limit per unit of average daily attendance for the fiscal year in which the reduction occurs by an amount attributable to the increase in the 1986–87 fiscal year base revenue limit per unit of average daily attendance pursuant to paragraph (4) of subdivision (b) of Section 42238, as adjusted in the 1986–87 fiscal year and fiscal years thereafter.

For each school district that receives an apportionment pursuant to subdivision (a) in the 1986–87 fiscal year and that reduces the

amount of instructional time offered below the minimum amounts specified in paragraph (3) of subdivision (a) in the 1987–88 fiscal year or any fiscal year thereafter, the Superintendent of Public Instruction shall reduce the base revenue limit per unit of average daily attendance for the fiscal year in which the reduction occurs by an amount attributable to the increase in the 1987–88 fiscal year base revenue limit per unit of average daily attendance pursuant to paragraph (4) of subdivision (b) of Section 42238, as adjusted in the 1987–88 fiscal year and fiscal years thereafter.

SEC. 18. Section 46300.4 of the Education Code is amended to read:

46300.4. If a pupil 21 years of age or older, or pupils 19 years of age or older who has not been continuously enrolled in kindergarten or any of grades 1 to 12, inclusive, since his or her 18th birthday, any attendance credit for coursework he or she is pursuing through independent study shall be eligible for apportionment only if it is one or more of the types of courses set forth in paragraph (1) of subdivision (a) of Section 51225.3.

This section shall become operative on July 1, 1990.

SEC. 19. Article 2 (commencing with Section 46320) of Chapter 3 of Part 26 of the Education Code is repealed.

SEC. 20. Section 46350 of the Education Code is repealed.

SEC. 21. Section 46364 of the Education Code is repealed.

SEC. 22. Section 46380 of the Education Code is amended to read:

46380. The average daily attendance for the fiscal year of pupils residing in any county of this state and attending a school in an adjoining state under Article 1 (commencing with Section 2000) of Chapter 7 shall be computed by dividing the total number of days of attendance of the pupils in the school by the number of days the school was maintained during that fiscal year, but by not less than 175, and the average daily attendance so computed shall be credited to the county school tuition fund.

SEC. 23. Section 46600 of the Education Code is amended to read:

46600. (a) The governing boards of two or more school districts may enter into an agreement, for a term not to exceed five school years, for the interdistrict attendance of pupils who are residents of the districts. The agreement may provide for the admission to a district other than the district of residence of a pupil who requests a permit to attend a school district that is a party to the agreement and that maintains schools and classes in kindergarten or any of grades 1 to 12, inclusive, to which the pupil requests admission.

The agreement shall stipulate the terms and conditions under which interdistrict attendance shall be permitted or denied.

The supervisor of attendance of the district of residence shall issue an individual permit verifying the district's approval, pursuant to policies of the board and terms of the agreement, for the transfer and for the applicable period of time. A permit shall be valid upon concurring endorsement by the designee of the governing board of the district of proposed attendance. The stipulation of the terms and

conditions under which the permit may be revoked is the responsibility of the district of attendance.

(b) In addition to the requirements of subdivision (e) of Section 48915.1, and regardless of whether an agreement exists or a permit is issued pursuant to this section, any district may admit a pupil expelled from another district in which the pupil continues to reside.

SEC. 24. Section 48412 of the Education Code is amended to read:

48412. (a) Any person 16 years of age or older, or who has been enrolled in the 10th grade for one academic year or longer, or who will complete one academic year of enrollment in the 10th grade at the end of the semester during which the next regular examination will be conducted, shall be permitted to have his or her proficiency in basic skills taught in public high schools verified according to criteria established by the State Department of Education.

The State Board of Education shall award a "certificate of proficiency" to persons who demonstrate that proficiency. The certificate of proficiency shall be equivalent to a high school diploma, and the State Department of Education shall keep a permanent record of the issuance of all the certificates.

(b) The State Department of Education shall develop standards of competency in basic skills taught in public high schools and shall provide for the administration of examinations prepared by or with the approval of the department to verify such competency. Regular examinations shall be held once in the fall semester and once in the spring of every academic year on a date, as determined by the State Department of Education, which will enable notification of examinees and the schools they attend, if any, of the results thereof not later than two weeks prior to the date on which that semester ends in a majority of school districts which maintain high schools.

In addition to regular examinations, the State Department of Education may, at the discretion of the Superintendent of Public Instruction, conduct examinations for all eligible persons once during each summer recess and may conduct examinations at such other times as the superintendent deems necessary to accommodate eligible persons whose religious convictions or physical handicaps prevent their attending one of the regular examinations.

(c) The State Department of Education may charge a fee for each examination application in an amount sufficient to recover the costs of administering the requirements of this section; provided, however, that the fee shall not exceed forty dollars ($40) per examination application. All fees levied and collected pursuant to this section shall be deposited in the State Treasury for remittance to the current support appropriation of the State Department of Education as reimbursement for costs of administering this section. Any reimbursements collected in excess of actual costs of administration of this section shall be transferred to the unappropriated surplus of the General Fund by order of the Director of Finance.

(d) The State Board of Education shall adopt rules and regulations

as are necessary for implementation of the provisions of this section.

SEC. 25. Section 48915.1 of the Education Code is amended to read:

48915.1. (a) If the governing board of a school district receives a request from an individual who has been expelled from another school district for an act described in paragraphs (1) to (4), inclusive, of subdivision (a) of Section 48915, for enrollment in a school maintained by the school district, the board shall hold a hearing to determine whether that individual poses a continuing danger either to the pupils or employees of the school district. The hearing and notice shall be conducted in accordance with the rules and regulations governing procedures for the expulsion of pupils as described in Section 48918. A school district may request information from another school district regarding a recommendation for expulsion or the expulsion of an applicant for enrollment. The school district receiving the request shall respond to the request with all deliberate speed but shall respond no later than five working days from the date of the receipt of the request.

(b) If a pupil has been expelled from his or her previous school for any of the offenses listed in paragraphs (1) to (4), inclusive, of subdivision (a) of Section 48915, the parent, guardian, or pupil, if the pupil is emancipated or otherwise legally of age, shall, upon enrollment, inform the receiving school district of his or her status with the previous school district. If this information is not provided to the school district and the school district later determines the pupil was expelled from the previous school, the lack of compliance shall be recorded and discussed in the hearing required pursuant to subdivision (a).

(c) The governing board of a school district may make a determination to deny enrollment to an individual who has been expelled from another school district for any act described in paragraphs (1) to (4), inclusive, of subdivision (a) of Section 48915, for the remainder of the expulsion period after a determination has been made, pursuant to a hearing, that the individual poses a potential danger to either the pupils or employees of the school district.

(d) The governing board of a school district, when making its determination whether to enroll an individual who has been expelled from another school district for these acts, may consider the following options:

(1) Deny enrollment.

(2) Permit enrollment.

(3) Permit conditional enrollment in a regular school program or another educational program.

(e) Notwithstanding any other provision of law, the governing board of a school district, after a determination has been made, pursuant to a hearing, that an individual expelled from another school district for any act described in paragraphs (1) to (4), inclusive, of subdivision (a) of Section 48915 does not pose a danger

to either the pupils or employees of the school district, shall permit the individual to enroll in a school in the school district during the term of the expulsion, provided that he or she, subsequent to the expulsion, either has established legal residence in the school district, pursuant to Section 48200, or has enrolled in the school pursuant to an interdistrict agreement executed between the affected school districts pursuant to Chapter 5 (commencing with Section 46600).

SEC. 26. Section 48221 of the Education Code is repealed.

SEC. 27. Section 51747.6 of the Education Code is repealed.

SEC. 28. Section 52501.5 of the Education Code is amended to read:

52501.5. (a) Except as provided in subdivision (b), no revenue derived from the average daily attendance of adult education programs shall be expended for other than adult education purposes, nor shall revenue derived from other average daily attendance be expended for adult education purposes.

(b) When a district's adult revenue limit, as determined pursuant to Section 52616, is composed of average daily attendance from both a regional occupational center or program and an adult education program, the adult revenue limit income may be allocated to each program in a proportion other than the amount of adult revenue limit per average daily attendance otherwise allocable thereto.

SEC. 29. Section 52610.5 of the Education Code is amended to read:

52610.5. Notwithstanding Section 52610, any minor, regardless of age, who is pregnant or is a parent actively engaged in raising one or more of his or her children, is eligible to enroll in any adult education course or class described in subdivision (a) of Section 41976 or in Section 52616.2. The attendance of that pupil in that course or class shall be counted for adult education apportionment purposes, except that no district shall be entitled to claim average daily attendance for apportionment purposes in excess of the amount authorized by subdivision (b) of Section 52616. In addition, no district may count the attendance of any pupil toward the computation of both adult average daily attendance, as computed pursuant to Section 41601, and regular average daily attendance, as computed pursuant to Section 46300.

SEC. 30. Section 56361 of the Education Code is amended to read:

56361. The continuum of program options shall include all of the following:

(a) A resource specialist program pursuant to Section 56362.

(b) Designated instruction and services pursuant to Section 56363.

(c) Special classes and centers pursuant to Section 56364.

(d) Nonpublic, nonsectarian school services pursuant to Section 56365.

(e) State special schools pursuant to Section 56367.

(f) Instruction in settings other than classrooms where specially designed instruction may occur.

SEC. 31. Section 56430 of the Education Code is amended to read:

56430. (a) Early education services may be provided by any of the following methods:

(1) Directly by a local educational agency.

(2) Through an interagency agreement between a local educational agency and another public agency.

(3) Through a contract with another public agency pursuant to Section 56369.

(4) Through a contract with a certified nonpublic, nonsectarian school, or nonpublic, nonsectarian agency pursuant to Section 56366.

(5) Through a contract with a nonsectarian hospital in accordance with Section 56361.5.

(b) Contracts or agreements with agencies identified in subdivision (a) for early education services are strongly encouraged when early education services are currently provided by another agency, and when found to be a cost-effective means of providing the services. The placement of individual infants under any such contract shall not require specific approval by the governing board of the district or the county office.

(c) Early education services provided under this chapter shall be funded pursuant to Sections 56427, 56428, and 56728.8. Early education programs shall not be funded pursuant to any of Sections 56740 to 56743, inclusive.

SEC. 32. Section 56441.8 of the Education Code is amended to read:

56441.8. Early education services for preschoolers may be provided by any of the following methods:

(a) Directly by a local educational agency.

(b) Through an interagency agreement between a local educational agency and another public agency.

(c) Through a contract with another public agency pursuant to Section 56369.

(d) Through a contract with a certified nonpublic, nonsectarian school; or nonpublic, nonsectarian agency pursuant to Section 56366.

(e) Through a contract with a nonsectarian hospital in accordance with Section 56361.5.

SEC. 33. Section 56738 of the Education Code is amended to read:

56738. Notwithstanding Section 56737, the support services amounts for all instructional personnel services units added between the end of the first principal apportionment period and the end of the second principal apportionment period during a single fiscal year shall be one-half of the amounts computed for those units pursuant to Section 56737.

SEC. 34. Item 6110-161-890 of Section 2.00 of the Budget Act of 1991, as set forth in Chapter 118 of the Statutes of 1991, is amended to read:

6110-161-890—For local assistance, Department of Education, payable from the Federal Trust Fund, Program 10.60—Special Education Programs for Exceptional Children 211,926,000

Schedule:

(a) 10.60.050.010-PL 94-142, local entitlements 162,666,000

(b) 10.60.050.020-PL 94-142, direct and indirect instructional services approved in the State Plan 11,466,000

(c) 10.60.050.030-PL 99-457, Preschool Grant Program 33,228,000

(d) 10.60.030-IDEA, Title VIC, Deaf-Blind Center 9,000

(e) 10.60.050.040-IDEA, Title VID, Handicapped Personnel Preparation Grants 657,000

(f) 10.60.050.050-PL 98-199, Removal of Architectural Barriers 3,640,000

(g) 10.60.050.070-IDEA, Title VIC, Least Restrictive Environment 260,000

Provisions:

1. If the funds for Part B of the Individuals with Disabilities Act that are actually received by the state exceed $183,183,000, at least 95 percent of the funds received in excess of that amount shall be allocated for local entitlements. Five percent (5%) of the amount received in excess of $183,183,000 may be used for state administrative expenses.

   If the funds for Part B of the Individuals with Disabilities Act that are actually received by the state are below $183,183,000, the reduction shall be taken in direct and indirect instructional services.

2. Of the funds appropriated in Schedule (b) of this item, up to $1,000,000 may be used to fund licensed children's institution growth units pursuant to Section 56776 of the Education Code. These funds are to be used for instructional units only.

3. Of the funds appropriated in Schedule (b) of this item, up to $2,324,000 may be used to provide funding for infant programs, and may be used for those programs that do not qualify for funding pursuant to Section 56728.8 of the Education Code.

4. Of the funds appropriated in Schedule (b) of

this item, $2,425,000 shall be allocated to local education agencies for the purposes of Project WorkAbility I.

5. Of the funds appropriated in Schedule (b) of this item, $1,700,000 shall be used to provide specialized services to pupils with low incidence disabilities, as defined in Section 56026.5 of the Education Code.
6. Of the funds appropriated in Schedule (b) of this item, $3,617,000 shall be used for a personnel development program. This program will include state-sponsored staff development, local in-service components, bilingual, student study team, and core curriculum components. Of this amount, a minimum of $2,500,000 shall be allocated directly to special education local plan areas. The local in-service programs shall include a parent training component. All programs are to include evaluation components.
7. Of the funds appropriated in this item for the Preschool Grant Program, $1,228,000 may be used for in-service training programs. This program shall include state-sponsored and local components.
8. Of the funds appropriated in Schedule (b) of this item, $200,000 shall be used for research and training in cross-cultural assessments.
9. Of the funds appropriated in Schedule (b) of this item, $200,000 shall be used for pilot programs to regionalize services for pupils with low incidence disabilities.

SEC. 35. (a) Notwithstanding any other provision of law, in the event that territory is taken from the Healdsburg Union High School District and annexed to, or included in, the Windsor Unified School District, the division of bonded indebtedness pursuant to that reorganization shall be governed by this section.

(b) Liability for bonded indebtedness that is incurred prior to the date the action for reorganization, as described in subdivision (a), becomes effective pursuant to Section 35534 shall be divided pursuant to Section 35576. Any funds derived from the issuance of bonds that are not either expended or encumbered prior to that effective date shall be used for the acquisition, construction, or improvement of school property as authorized pursuant to the voter approval of those bonds, for which purpose those funds shall be divided as of that date between the Healdsburg Union High School District and the Windsor Unified School District in the ratios that the assessed valuation of the territory remaining in the Healdsburg Union High School District and the assessed valuation of the territory transferred to the

Windsor Unified School District bear respectively to the total assessed valuation of all territory in the Healdsburg Union High School District immediately preceding that effective date.

(c) Prior to the date the action for reorganization, as described in subdivision (a), becomes effective pursuant to Section 35534, the Board of Supervisors of the County of Sonoma shall make and order, and enter that order in the minutes of its proceedings, that the authorization to issue bonds be divided between the Healdsburg Union High School District and the Windsor Unified School District in the manner set forth in subdivision (b).

(d) Any bonds issued by the Windsor Unified School District pursuant to this section shall be deemed to be a liability of that district for purposes of computing the bonded capacity of the district pursuant to Chapter 8 (commencing with Section 16000) of Part 10 of the Education Code.

SEC. 36. (a) The Legislature finds and declares that Section 35 of this act is necessary to address unique problems in the Healdsburg Union High School District arising from the combination of a scheduled election to authorize the issuance of bonds to fund school facilities for that district and an impending election to transfer territory from that district to the new Windsor Unified School District in order to unify the existing Windsor Elementary School District.

(b) Due to the unique circumstances specified in subdivision (a) concerning the Healdsburg Union High School District, the Legislature finds and declares that a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution.

SEC. 37. Of the unencumbered balance of the amount appropriated in Schedule (a) of Item 6110-111-001 of Section 2.00 of the Budget Act of 1990, the sum of six million dollars ($6,000,000) shall be allocated for transportation by the Superintendent of Public Instruction pursuant to the funding formula prescribed in Section 41851.1 of the Education Code.

SEC. 38. The sum of four million seven hundred thousand dollars ($4,700,000) is hereby appropriated from the General Fund to the State Department of Education for the 1991-92 fiscal year for apportionment as follows:

(a) The sum of seven hundred thousand dollars ($700,000) for transfer to the Controller, for reimbursement of claims received pursuant to Sections 42243.6 and 42247 of the Education Code. The funding set forth in this section shall be apportioned to the San Jose Unified School District, in accordance with Item 6110-114-001 of Section 2.00 of the Budget Act of 1991 (Chapter 118 of the Statutes of 1991), and shall augment the amount appropriated to that school district under Schedule (6) of that item.

(b) (1) The sum of four million dollars ($4,000,000) for allocation to school districts in this state to fund instruction in public secondary schools on the effects of alcohol, narcotics, restricted dangerous drugs as defined in Section 11032 of the Health and Safety Code, and

other dangerous substances upon prenatal development as required by Section 51203 of the Education Code. That funding shall be allocated to applicant school districts on the basis of need, as evidenced by factors including, but not limited to, the incidence of teen pregnancy and controlled substance abuse in the pupil population of the district.

(2) Notwithstanding any other provision of law, the funding allocated pursuant to this subdivision shall be in lieu of any payment that otherwise may be made to reimburse the recipient school districts pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code for costs mandated by the state and incurred by them pursuant to Section 51203 of the Education Code. No school district shall be required to expend in any fiscal year, for the purpose of providing the instruction described in paragraph (1), an amount that exceeds the amount received by that district for that fiscal year from funding appropriated expressly by the Legislature for that instructional purpose and any funding made available for that instructional purpose under the federal Drug Free Schools and Communities Act of 1986 (20 U.S.C. Secs. 3171 et seq.).

SEC. 39. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because this act implements a federal law or regulation and involves only "costs mandated by the federal government," as defined by Section 17513 of the Government Code. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

SEC. 40. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to implement various revisions to the statutes governing the apportionment of state educational funding, and related elements of public school finance, for purposes of the 1990–91 fiscal year, it is necessary that this act take effect immediately.

CHAPTER 757

An act to add Part 4 (commencing with Section 4370) to Division 4 of the Welfare and Institutions Code, relating to public school pupils, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 9, 1991 Filed with Secretary of State October 9, 1991]

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

SECTION 1. Part 4 (commencing with Section 4370) is added to Division 4 of the Welfare and Institutions Code, to read:

PART 4. SCHOOL-BASED EARLY MENTAL HEALTH INTERVENTION AND PREVENTION SERVICES FOR CHILDREN ACT

CHAPTER 1. GENERAL PROVISIONS AND DEFINITIONS

4370. This part shall be known and may be cited as the School-based Early Mental Health Intervention and Prevention Services for Children Act of 1991.

4371. The Legislature finds and declares all of the following:

(a) Each year in California over 65,000 teenagers become adolescent mothers and 230 teenagers commit suicide. Each year more than 20 percent of California's teenagers drop out of high school.

(b) Thirty percent of California's elementary school pupils experience school adjustment problems, many of which are evident the first four years of school, that is, kindergarten and grades 1 to 3, inclusive.

(c) Problems that our children experience, whether in school or at home, that remain undetected and untreated grow and manifest themselves in all areas of their later lives.

(d) There is a clear relationship between early adjustment problems and later adolescent problems, including, but not limited to, poor school attendance, low achievement, delinquency, drug abuse, and high school dropout rates. In many cases, signs of these problems can be detected in the early grades.

(e) It is in California's best interest, both in economic and human terms, to identify and treat the minor difficulties that our children are experiencing before those difficulties become major barriers to later success. It is far more humane and cost-effective to make a small investment in early mental health intervention and prevention services now and avoid larger costs, including, but not limited to, foster care, group home placement, intensive special education services, mental health treatment, or probation supervised care.

(f) Programs like the Primary Prevention Projects and the San Diego Unified Counseling Program for children have proven very effective in helping children adjust to the school environment and learn more effective coping skills that in turn result in better school achievement, increased attendance, and increased self-esteem.

(g) To create the optimum learning environment for our children, schools, teachers, parents, public and private service

providers, and community-based organizations must enter into locally appropriate cooperative agreements to ensure that all pupils will receive the benefits of school-based early mental health intervention and prevention services that are designed to meet their personal, social, and educational needs.

4372. For the purposes of this part, the following definitions shall apply:

(a) "Cooperating entity" means any federal, state, or local, public or private nonprofit agency providing school-based early mental health intervention and prevention services that agrees to offer services at a schoolsite through a program assisted under this part.

(b) "Eligible pupil" means a pupil who attends a school that receives funds under Part A of Chapter 1 of Title I of the Elementary and Secondary Education Act of 1965 and who is in kindergarten or grades 1 to 3, inclusive.

(c) "Local educational agency" means any school district or county office of education.

(d) "Director" means the State Director of Mental Health.

(e) "Supportive service" means a service that will enhance the mental development of children.

CHAPTER 2. SCHOOL-BASED EARLY MENTAL HEALTH INTERVENTION AND PREVENTION SERVICES MATCHING GRANT PROGRAM

4380. The Legislature authorizes the director, in consultation with the Secretary of Child Development and Education and the Superintendent of Public Instruction, to award matching grants to local educational agencies to pay the state share of the costs of providing programs that provide school-based early mental health intervention and prevention services to eligible pupils at schoolsites of eligible pupils, as follows:

(a) The director shall award matching grants pursuant to this chapter to local educational agencies throughout the state.

(b) Matching grants awarded under this part shall be awarded for a period of not more than three years and no single schoolsite shall be awarded more than one grant.

(c) The director shall pay to each local educational agency having an application approved pursuant to requirements in this part the state share of the cost of the activities described in the application.

(d) The state share of matching grants shall be 60 percent in the first year; 40 percent in the second year; and 30 percent in the third year.

(e) The local share of matching grants shall be 40 percent in the first year, 60 percent in the second year; and 70 percent in the third year.

(f) The local share of the matching grant may be in cash or payment in-kind.

(g) Priority shall be given to those applicants that demonstrate

the following:

(1) The local educational agency will serve the greatest number of eligible pupils from low-income families.

(2) The local educational agency will provide a strong parental involvement component.

(3) The local educational agency will provide supportive services with one or more cooperating entities.

(4) The local educational agency will provide services at a low cost per child served in the project.

(5) The local educational agency will provide programs and services that are based on adoption or modification, or both, of existing programs that have been shown to be effective.

(6) The local educational agency will provide services to children who are in out-of-home placement or who are at risk of being in out-of-home placement.

(h) Eligible supportive services may include the following:

(1) Individual and group intervention and prevention services.

(2) Parent involvement through conferences or training, or both.

(3) Teacher and staff conferences and training related to meeting project goals.

(4) Referral to outside resources when eligible pupils require additional services.

(5) Use of paraprofessional staff, who are trained and supervised by credentialed school psychologists, school counselors, or school social workers, to meet with pupils on a short-term weekly basis, as in the Primary Prevention Projects established pursuant to Chapter 6 (commencing with Section 5475) of Part 1.

(6) Any other service or activity that will improve the mental health of eligible pupils.

Prior to participation by an eligible pupil in either individual or group services, consent of a parent or guardian shall be obtained.

(i) Each local educational agency seeking a grant under this chapter shall submit an application to the director at the time, in a manner, and accompanied by any information the director may reasonably require.

(j) Each matching grant application submitted shall include all of the following:

(1) Documentation of need for the school-based early mental health intervention and prevention services.

(2) A description of the school-based early mental health intervention and prevention services expected to be provided at the schoolsite.

(3) A statement of program goals.

(4) A list of cooperating entities that will participate in the provision of services. A letter from each cooperating entity confirming its participation in the provision of services shall be included with the list. At least one letter shall be from a cooperating entity confirming that it will agree to screen referrals of low-income children the program has determined may be in need of mental

health treatment services and that, if the cooperating entity determines that the child is in need of those services and if the cooperating entity determines that according to its priority process the child is eligible to be served by it, the cooperating entity will agree to provide those mental health treatment services.

(5) A detailed budget and budget narrative.

(6) A description of the proposed plan for parent involvement in the program.

(7) A description of the population anticipated to be served, including number of pupils to be served and socioeconomic indicators of sites to receive funds.

(8) A description of the matching funds from a combination of local education agencies and cooperating entities.

(9) A plan describing how the proposed school-based early mental health intervention and prevention services program will be continued after the matching grant has expired.

(10) Assurance that grants would supplement and not supplant existing local resources provided for early mental health intervention and prevention services.

(11) A description of an evaluation plan that includes quantitative and qualitative measures of school and pupil characteristics, and a comparison of children's adjustment to school.

(k) Matching grants awarded pursuant to this article may be used for salaries of staff responsible for implementing the school-based early mental health intervention and prevention services program, equipment and supplies, training, and insurance.

(*l*) Salaries of administrative staff and other administrative costs associated with providing services shall be limited to 5 percent of the state share of assistance provided under this section.

(m) No more than 10 percent of each matching grant awarded pursuant to this article may be used for matching grant evaluation.

(n) No more than 6 percent of the moneys allocated to the director pursuant to this chapter may be utilized for program administration and evaluation.

Program administration shall include both state staff and field staff who are familiar with and have successfully implemented school-based early mental health intervention and prevention services. Field staff may be contracted with by local school districts or community mental health programs. Field staff shall provide support in the timely and effective implementation of school-based early mental health intervention and prevention services. Reviews of each project shall be conducted at least once during the first year of funding.

4381. No funding shall be made available to any program or facility pursuant to this chapter unless all of the following conditions are met:

(a) The program facility is open to children without regard to any child's religious beliefs or any other factor related to religion.

(b) No religious instruction is included in the program.

(c) The space in which the program is operated is not utilized in any manner to foster religion during the time used for the program.

CHAPTER 3. SCHOOL-BASED EARLY MENTAL HEALTH INTERVENTION AND PREVENTION SERVICES MATCHING GRANT PROGRAM EVALUATIONS AND REPORTS

4390. The Legislature finds that an evaluation of program effectiveness is both desirable and necessary and accordingly requires the following:

(a) No later than September 1, 1992, and each year thereafter through the term of the grant award, each local education agency that receives a matching grant under this part shall submit a report to the director that shall include the following:

(1) An evaluation of the effectiveness of the local educational agency in achieving stated goals.

(2) A description of the problems encountered in the design and operation of the school-based early mental health intervention and prevention services program, including, but not limited to, identification of any federal, state, or local regulations that impeded program implementation.

(3) The number of eligible pupils served by the program.

(4) The number of additional eligible pupils who have not been served.

(5) An evaluation of the impact of the school-based early mental health intervention and prevention services program on the local educational agency and the children completing the program. The program shall be deemed successful if at least 75 percent of the children who complete the program show an improvement in at least one of the four following areas:

(A) Learning behaviors.

(B) Attendance.

(C) School adjustment.

(D) School-related competencies. Improvement shall be compared with comparable children in that school district that do not complete or participate in the program.

(6) An accounting of local budget savings, if any, resulting from the implementation of the school-based early mental health intervention and prevention services program.

(7) A revised plan of how the proposed school-based early mental health intervention and prevention services program will be continued after the state matching grant has expired, including a list of cooperative entities that will assist in providing the necessary funds and services.

(b) No later than January 1, 1994, the director shall, through grants, contracts, or cooperative agreements with independent organizations, provide for an evaluation of the effectiveness of matching grants awarded under Chapter 2 (commencing with Section 4380) of this part. This evaluation shall allow for the

comparison of the impact of different models of school-based mental health early intervention and prevention services programs on the local educational agency and on the children participating in the program. That comparison shall be done with comparable schools or school districts that operate without the school-based mental health early intervention and prevention services program.

(c) No later than April 1, 1994, the director shall submit a report to the Governor, the Legislature, and the Secretary of Child Development and Education summarizing the reports submitted under subdivision (a) of this section and reporting the results of the evaluation described in subdivision (b) of this section.

SEC. 2. (a) The sum of ten million dollars ($10,000,000) is hereby appropriated from the General Fund, to the State Director of Mental Health for the purpose of administering the school-based early mental health intervention and prevention services for children grants program and of providing those grants, consistent with Part 4 (commencing with Section 4370) of Division 4 of the Welfare and Institutions Code. It is the intent of the Legislature that sums as may be necessary be appropriated for the School-Based Early Mental Health Intervention and Prevention Services for Children Act of 1991 for the 1992–93 and 1993–94 fiscal years. It is further the intent of the Legislature that sufficient funding shall be provided in subsequent fiscal years to expand the program on a statewide basis. It is also the intent of the Legislature that any funding appropriated in excess of any funding appropriated for the 1991–92 fiscal year in subsequent fiscal years be in excess of the amount required to be appropriated to meet the minimum funding guarantee pursuant to the provisions of Section 8 of Article XVI of the California Constitution.

(b) The State Director of Mental Health shall allocate to local educational agencies that have been selected to participate in the grant program under the School-Based Early Mental Health Intervention and Prevention Services for Children Act of 1991 all funds appropriated by the Legislature for that purpose.

SEC. 3. For the 1991–92 and 1992–93 fiscal years, the State Director of Mental Health shall not award a grant to a local educational agency that also has been awarded an operational grant under the Healthy Start Support Services for Children Act of 1991.

SEC. 4. (a) If Senate Bill 620 is enacted and becomes effective on or before January 1, 1992, and that bill adds Chapter 5 (commencing with Section 8800) to Part 6 of the Education Code, establishing the Healthy Start Support Services for Children Act, it is the intent of the Legislature that, no later than the 1993–94 fiscal year, a single schoolsite that receives funding under that program and the program established under Section 1 of this act, shall combine and subsume the assistance received under both programs under the program established by Senate Bill 620.

(b) If the conditions in subdivision (a) do not occur, and in the event that Assembly Bill 165 is enacted and becomes effective on or

before January 1, 1992, and that bill adds Chapter 5 (commencing with Section 54550) to Part 29 of the Education Code, establishing the CalSTAR Early Intervention and Prevention Program, it is the intent of the Legislature that, no later than the 1993–94 fiscal year, a single schoolsite that receives funding under that program and the program established under Section 1 of this act, shall combine and subsume the assistance received under both programs under the program established by Assembly Bill 165.

SEC. 5. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order that every child in California is provided the school-based early mental health intervention and prevention services they require to learn, it is necessary that this act take effect immediately.

CHAPTER 758

An act to add Sections 8211 and 8236 to the Education Code, relating to preschool funding, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 9, 1991. Filed with Secretary of State October 9, 1991.]

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

SECTION 1. The Legislature finds and declares the following:

(a) High quality, comprehensive child development services are essential in preparing at-risk children for school and enabling them to achieve their full potential.

(b) It is far more humane and cost-effective to engage in preventive programs, like preschool, than in remedial programs that are far more expensive and far less certain of success.

(c) For every dollar invested in comprehensive preschool programs, society saves five dollars ($5) in welfare, remedial education, and crime costs. Yet, California is failing to make this investment since there are currently over 150,000 children on waiting lists for the State Preschool Program.

(d) California must make an investment in its children by assisting the State Preschool Program in providing necessary health, educational, nutritional, and social services to its economically disadvantaged children and their families.

(e) California must strengthen its commitment to children by expanding access to the State Preschool Program to ensure that all eligible children receive high quality, comprehensive services.

SEC. 2. Section 8211 is added to the Education Code, to read:

8211. It is the intent of the Legislature that one hundred eighty

thousand dollars ($180,000) be appropriated each fiscal year for allocation to child care and development resource and referral agencies operated by local educational agencies for the purpose of the child care resources and referral program set forth in this article.

SEC. 3. Section 8236 is added to the Education Code, to read:

8236. It is the intent of the Legislature to expand access for all eligible four-year-old children to the State Preschool Program, and to expand access to all eligible three-year-old children, if all eligible four-year-old children are being served by the State Preschool Program. Once all eligible children are served by the State Preschool Program, it is the intent of the Legislature to expand access to full-day child development programs for eligible four-year-old children. Once all eligible four-year-old children have access to full-day child development programs, it is the intent of the Legislature to expand access to full-day child development programs for all eligible three-year-old children. Accordingly, the Legislature hereby requires all of the following:

(a) If the superintendent has funded all applications from local educational agencies that have indicated a need for additional funds to serve eligible four-year-old children in the State Preschool Program, and if the superintendent has funded all applications from local educational agencies that have indicated a need for additional funds to serve eligible three-year-old children in the State Preschool Program, the superintendent may use the remaining funds to contract with local educational agencies to provide full-day child development programs pursuant to this chapter to eligible four-year-old children. Before the superintendent may expend those funds for full-day child development programs, the superintendent shall notify the Department of Finance that all applications from local educational agencies that indicated a need for additional funds to serve eligible three- and four-year-old children in the State Preschool Program have been funded and shall request the approval of the Department of Finance to use the remaining funds for full-day child development programs, as specified by the superintendent, in consultation with the Secretary of Child Development and Education, to provide access to those programs for eligible four-year-old children.

(b) Funds that remain available after providing the services as required in subdivision (a) are to be used to provide access to full-day child development programs for eligible three-year-old children.

(c) For purposes of this section, the following definitions apply:

(1) "Eligible children" means children who are currently eligible for the State Preschool Program.

(2) "Local education agency" means a school district, county office of education or a community college district, a or a school district on behalf of one or more schools within the school district.

(3) "Superintendent" means the Superintendent of Public Instruction.

(d) Nothing in this section shall be deemed to preclude a local education agency from subcontracting with an appropriate public or private agency to operate a state preschool program and to apply for funds made available for the purposes of this section. If a school district chooses not to operate or subcontract for a state preschool program, the superintendent shall work with the county office of education to explore possible opportunities in subcontracting to provide a state preschool program.

SEC. 4. The sum of one hundred eighty thousand dollars ($180,000) is hereby appropriated to the Superintendent of Public Instruction from the General Fund for allocation to child care and development resource and referral agencies operated by local educational agencies for the purposes of the child care resources and referral program set forth in Article 2 (commencing with Section 8210) of Chapter 2 of Part 6 of the Education Code. This amount shall be applied toward the Proposition 98 minimum funding obligation for the 1991–92 fiscal year.

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

In order that every child who is four years of age in California is provided the support and guidance he or she requires in order to learn and to succeed, it is necessary that this act take effect immediately.

CHAPTER 759

An act to add Chapter 5 (commencing with Section 8800) to Part 6 of the Education Code, relating to children.

[Approved by Governor October 9, 1991 Filed with Secretary of State October 9, 1991.]

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

SECTION 1. Chapter 5 (commencing with Section 8800) is added to Part 6 of the Education Code, to read:

CHAPTER 5. HEALTHY START SUPPORT SERVICES FOR CHILDREN ACT

Article 1. General Provisions and Definitions

8800. This chapter shall be known and may be cited as the Healthy Start Support Services for Children Act.

8801. The Legislature finds and declares all of the following:

(a) A large and growing number of California's children are not

learning enough in school to prepare them for full economic, social, and civic participation in adult life, as evidenced by the following statistics:

(1) Each year, between 59,000 and 72,000 children are born exposed to drugs or alcohol.

(2) Currently 360,000 children are abused or neglected, according to the juvenile courts and county welfare departments.

(3) Each year, a substantial number of parents have their parental rights terminated by the courts.

(4) Seventy thousand children are presently placed with foster care because of parental abuse or neglect or delinquent behavior.

(5) Out of an average class of 30 high school sophomores, any eight pupils are on public assistance, any four speak no English, any eight are at least two years behind in reading and math, any three have grown up in public housing, any seven will not graduate, any three will be teen parents, and any seven will not be employable.

(6) Sixty-one thousand children receive mental health services annually.

(7) One million one hundred thousand children go to bed hungry every night.

(b) The quality of life for all Californians is affected by these conditions. These children, and often the children they have, impose heavy costs on taxpayers by requiring special services, income assistance, or incarceration or institutionalization. They are a burden on the capacity of the state's economy to produce adequate revenues and an adequate tax base.

(c) The causes of the problems children face are complex and interdependent. Many families, especially those affected by poverty, fail to provide the physical, emotional, and intellectual support needed to ensure that their children are ready for school. Many neighborhoods and larger communities lack the resources or organization to support children. The schools' support services either are not effective or have not effectively serviced a large enough percentage of at-risk children.

(d) Because children spend so much of their time at school, schools have been increasingly asked to provide a wide range of health and social services to children, and many have attempted to help parents as well. The capacity of schools to undertake these roles must be increased.

(e) However, this service capacity should not be increased through conventional, categorical approaches. Services to children and their families can be most effectively provided through consortia which include schools, other health and human service providers, parents, and community groups. Collaboration is necessary and more effective because the goals of school and community services are interdependent; fragmentation of existing state and local services otherwise inhibits their effectiveness; and community-based services offer resources and competence that schools do not have. Both the state and counties must develop policies and incentives to improve

collaboration at the local level.

(f) Therefore, it is the intent of the Legislature that by implementing the Healthy Start Support Services for Children Act, children in need of assistance to overcome the barriers to healthy, productive lives be given assistance in all of the following ways:

(1) By creating a learning environment that is optimally responsive to the physical, emotional, and intellectual needs of each child.

(2) By fostering interagency collaboration and communication at the local level to more efficiently and effectively deliver human support services to children and their families.

(3) By encouraging the full use of existing agencies, professional personnel, and public and private funds to ensure that children are ready and able to learn, and to prevent duplication of services and unnecessary expenditures.

(4) By encouraging the development of a local interagency oversight mechanism that includes a records system to evaluate cost and effectiveness, and the development of a process of self-assessment of those records and the way in which they are used, to improve the effectiveness of services.

8802. For the purposes of this chapter, the following definitions shall apply:

(a) "Consortium" means two or more local educational agencies.

(b) "Cooperating agency" means any federal, state, or local public or private nonprofit agency that agrees to offer support services at a schoolsite through a program implemented under this chapter.

(c) "Council" means the Healthy Start Support Services for Children Program Council.

(d) "Eligible pupil" means a pupil who attends a qualifying school that receives funds under this chapter.

(e) "Lead agency" means the State Department of Education.

(f) "Local educational agency" means a school district or county office of education.

(g) "Private partner" means a private business or foundation that provides financial assistance or otherwise assists a support services program operated under this chapter.

(h) "Qualifying school" means a school that is either of the following:

(1) A school in which 50 percent or more of the enrolled pupils either (A) are from families that receive Aid to Families with Dependent Children program benefits, have limited English proficiency, as identified pursuant to Section 52163, or both, or (B) are eligible to receive free or reduced-price meals under Section 49552.

(2) A school that does not satisfy the criteria in paragraph (1) but that demonstrates other factors that warrant its consideration, including, for example, strong local collaboration and maximum use of existing resources, so that the school may serve as a model for other schools, or other factors indicating pupil need. No more than 10

percent of the schools that participate in the program established by this chapter may be schools that qualify under this paragraph. However, pupils who attend schools that qualify under this paragraph shall be given priority for services if they are either (A) from families that receive Aid to Families with Dependent Children program benefits or pupils who are limited English proficiency, as defined in Section 52163, or both, or (B) eligible to receive free or reduced-price meals under Section 49552.

(i) "Secretary" means the Secretary of Child Development and Education.

(j) "Agency secretary" means the Secretary of the Health and Welfare Agency.

(k) "Superintendent" means the Superintendent of Public Instruction.

(*l*) "Support services" means services that will enhance the physical, social, emotional, and intellectual development of children and their families.

Article 2. Healthy Start Support Services for Children Program Council and Grant Program

8803. In order to encourage the integration of children's services, it is the intent of the Legislature to promote interagency coordination and collaboration among the state agencies responsible for the provision of support services to children and their families.

Therefore, the Legislature hereby establishes the Healthy Start Support Services for Children Program Council, as follows:

(a). Members of the council shall include the superintendent, the agency secretary, the secretary, and the directors of the State Department of Health Services, the State Department of Social Services, the State Department of Alcohol and Drug Programs, and the State Department of Mental Health.

(b) Duties of the council shall include:

(1) Developing, promoting, and implementing policy affecting the Healthy Start Support Services for Children Program.

(2) Reviewing grant applications submitted to the lead agency and providing the lead agency with recommendations for awarding grants pursuant to Section 8804.

(3) Soliciting input regarding program policy an direction from individuals and entities with experience in the integration of children's services.

(4) Assisting the lead agency in fulfilling its responsibilities under this chapter.

(5) Providing recommendations to the Governor, the Legislature, and the lead agency regarding the Healthy Start Support Services for Children Grant Program.

(6) At the request of the superintendent, assist the local educational agency or consortium in planning and implementing this program, including assisting with local advocacy and problem

solving, and developing agency collaboration.

8804. The superintendent shall award grants to a local educational agency or consortium to pay the costs of planning and operating, on behalf of one or more qualifying schools within the local educational agency or consortium, programs that provide support services to eligible pupils and their families at the schoolsite, or at a site adjacent to the school, as follows:

(a) Grants shall be awarded by the superintendent based upon the recommendations of the council and pursuant to this section.

(b) Two types of grants may be awarded to applicant local educational agencies or consortia, depending upon the level of readiness of that applicant to implement a program pursuant to this chapter. The superintendent shall issue Requests for Proposals for awarding the grants, which shall specify maximum dollar amounts for which each type of grant may be awarded. The Requests for Proposals shall also specify other criteria, as required by this article. The superintendent shall award those grants as follows:

(1) Planning grants may be awarded to local educational agencies or consortia that have demonstrated a need to implement a program, but that are not ready to begin the operation of the program, or that are in need of additional planning to expand existing support services programs. Planning grants shall be no more that fifty thousand dollars ($50,000) and shall be awarded for a period not to exceed two years. Upon completion of the planning phase, the local educational agency or consortium shall be eligible to apply for and may receive an operational grant.

(2) Operational grants may be awarded to local educational agencies or consortia that have demonstrated readiness to begin operation of a program or to expand existing support services programs. Operational grants shall supplement, not supplant, existing services and funds.

(3) Operational grants shall be awarded for a period not to exceed three years.

(A) Operational grants may include one-time startup grants, which may be used for, among other things, purchasing equipment, hiring staff, designing a program evaluation, or hiring a consultant. Startup grants shall be awarded for no more than one hundred thousand dollars ($100,000).

(B) Operational grants shall be awarded for no more than three hundred thousand dollars ($300,000). No more than 50 percent of each grant shall be available for expenditure on direct services, as long as the grant application contains a three-year plan to significantly reduce or to eliminate agency reliance on funding provided under this article for direct services. Direct services do not include salaries for staff who are developing or implementing the program.

(c) All grants awarded under this article shall be matched by the participating local educational agency or consortium with one dollar ($1) for each four dollars ($4) awarded. The match shall be

contributed in cash or as services or resources of comparable value. It is the intent of the Legislature that participants seek and utilize private funds or resources for this purpose. The superintendent may waive the match requirement upon verifying that the local educational agency or consortium made a substantial effort to secure a match but was unable to secure the required match.

(d) The superintendent shall award grants pursuant to this article to local educational agencies or consortia in northern, central, and southern California, in urban, suburban, and rural areas. To the extent possible, the grants shall be awarded for programs representative of the ethnic and linguistic diversity of schoolage pupils and their families. Further, to the extent possible, 50 percent of the grants shall be awarded to schools serving elementary school children and 50 percent to schools serving junior and senior high school pupils.

(e) No more than 100 local educational agencies or consortia shall be selected to participate in the Healthy Start Support Services for Children Grant Program for the first three years.

(f) A local educational agency or consortium is eligible for a grant under this article, on behalf of one or more schools operated by the agency or consortium, if it demonstrates in its plan that it:

(1) Will give priority for services provided under this chapter to eligible pupils from low-income families.

(2) Will assist families in responding to support services needs of eligible pupils.

(3) Has established the local agency collaboration process described in Article 4, including a mechanism for sharing governance with cooperating agencies and entities, and for integrating or redirecting existing resources and other school support services.

(4) If certification as a Medi-Cal provider is available to schools pursuant to the federal Omnibus Reconciliation Act of 1989 (P.L. 101-239), demonstration that the agency has submitted or is submitting an application to the State Department of Health Services for that certification.

(5) Has developed a system of providing services to all pupils at qualifying schools that receive funding under this chapter, including a mechanism to assess appropriate fees for services, based on the sliding fee schedule established pursuant to subdivision (e) of Section 8263. No fee shall be charged for services specified in a child's individualized education program, developed pursuant to the Individuals with Disabilities Education Act (P.L. 101-476).

(6) Involves parents or guardians and teachers in the process of identifying pupils' service needs and in the planning for and provision of support services.

(g) For purposes of this chapter, support services shall include case-managed health, mental health, social, and academic support services benefiting children and their families, and may include, but are not limited to:

(1) Health care, including:
(A) Immunizations.
(B) Vision and hearing testing and services.
(C) Dental services.
(D) Physical examinations, diagnostic, and referral services.
(E) Prenatal care.

(2) Mental health services, including primary prevention, crisis intervention, assessments, and referrals, and training for teachers in the detection of mental health problems.

(3) Substance abuse prevention and treatment services.

(4) Family support and parenting education, including child abuse prevention and schoolage parenting programs.

(5) Academic support services, including tutoring, mentoring, employment, and community service internships, and inservice training for teachers and administrators. However, grants for these purposes shall supplement, not supplant, existing resources in these areas.

(6) Counseling, including family counseling and suicide prevention.

(7) Services and counseling for children who experience violence in their communities.

(8) Nutrition services.

(9) Youth development services, including tutoring, mentoring, recreation, career development, and job placement.

(10) Case management services.

(11) Provision of onsite Medi-Cal eligibility workers.

(h) A local educational agency or consortium may contract with other entities, including county agencies and private nonprofit organizations or private partners, to provide services to eligible pupils and their families.

(i) Each local educational agency or consortium interested in a grant under this article shall submit an application to the superintendent at a time and manner, and with any appropriate information, as the superintendent may reasonably require.

Each grant application submitted shall include:

(1) A description of the proposed programs, including four or more support services expected to be provided at the schoolsite or at a site near, or adjacent to, the school.

(2) Documentation of need for participation in the Healthy Start Support Services for Children Grant Program.

(3) Documentation of need for planning assistance, program operation support, or both.

(4) Operational grant applications shall describe the objectives of the program, the amount and sources of required funding, the existing resources to be used or redirected, the priorities for development and timing of the program, the agencies responsible for the implementation of the program, and the procedures for the evaluation of the program.

The program plan shall include all of the following:

(A) Provisions for data collection and recordkeeping, including records of the population served, the components of the service, the results of the service, and costs, including startup, direct, and indirect costs, including those to other agencies, and cost savings.

(B) A service evaluation component, including input, process, and outcome indicators, quality assessment, and the process by which these measures will be taken. To the extent possible, the plan should include specific targets and outcome measures.

(C) A specific governing mechanism by which the plan will be implemented, including local decisionmaking responsibilities, organizational needs, anticipated problems and procedures to solve them, and incentives for collaboration and participation incentives to personnel.

(D) A specific system for the provision of case management services, including procedures for implementation, specifying the target population, anticipated outcomes, and a list of existing services, resources, and programs that will be used as components of the program.

(5) In the case of a consortium, a list of its members.

(6) The grant application also shall document any procedures that have been, or will be, taken to designate the local educational agency as a Medi-Cal provider pursuant to the federal Omnibus Budget Reconciliation Act of 1989 (P.L. 101-239) if this certification is available.

(7) A description of technical assistance, professional growth, and development needs, if any.

(8) A description of the proposed plan for family involvement in the program.

(9) A description of the population anticipated to be served.

(10) In the case of a grant application for program planning, a plan describing how the proposed program will be implemented after the grant has expired.

(j) Grants awarded pursuant to this article may be used for salaries of staff responsible for developing or implementing the program plan and administrative support staff, equipment and supplies, training, and insurance, pursuant to the provisions of subdivision (b).

(k) No more than 5 percent of any amount appropriated in any fiscal year to carry out the purposes of this chapter may be used by the superintendent for program administration, evaluation, and technical assistance. Technical assistance includes, but is not limited to, assistance in preparing both planning and operational grants, in establishing interagency collaboration, in providing information dissemination and referrals, including information about appropriate program models, in conducting site visits, and in convening workshops to assist in the implementation of a program developed pursuant to this chapter.

(1) Of this amount, up to 75 percent may be used for the purpose of outreach and local assistance to local educational agencies. The

remainder shall be used for state-level program administration.

(2) The superintendent shall ensure that adequate resources are available to conduct an evaluation pursuant to subdivision (b) of Section 8805.

(*l*) Commencing in the 1992 calendar year, and each subsequent year for which funding is available, grants shall be awarded according to the following schedule:

(1) The superintendent shall issue requests for proposals on or before February 1.

(2) Grant proposals shall be submitted to the superintendent on or before April 1.

(3) The superintendent shall award grants on or before June 30.

Article 3. Healthy Start Support Services for Children Grant Program Evaluations and Reports

8805. The Legislature finds that an evaluation of plan effectiveness is both desirable and necessary, and accordingly requires the following:

(a) No later than January 1, 1994, each local educational agency or consortium that receives an operational grant under this chapter shall submit a report to the superintendent, the secretary, and the agency secretary that shall include:

(1) An assessment of the effectiveness of that local educational agency or consortium in achieving stated goals in the planning and/or operational phase.

(2) Problems encountered in the design and operation of the Healthy Start Support Services for Children Grant Program plan, including identification of any federal, state, or local statute or regulation that will impede program implementation.

(3) Recommendations for ways to improve delivery of support services to eligible pupils.

(4) The number of eligible pupils who will receive support services who previously have not been served.

(5) The potential impact of the program on the local educational agency or the consortium, including any anticipated increase in school retention and achievement rates of eligible pupils.

(6) An accounting of anticipated local budget savings, if any, resulting from the implementation of the program.

(7) Client and practitioner satisfaction.

(8) The ability, or anticipated ability, to continue to provide services in the absence of future funding under this chapter, by allocating resources in ways that are different from existing methods.

(9) Increased access to services for pupils and their families.

(10) The degree of increased collaboration among participating agencies and private partners.

(11) If the local educational agency or consortium received certification as a Medi-Cal provider, the extent to which the certification improved access to needed health services.

(b) Additional annual evaluations may be required as designated by the superintendent.

(c) The superintendent shall cause an evaluation to be conducted by an independent organization of the effectiveness of grants awarded under this chapter in assisting local educational agencies and consortia in planning and implementing Healthy Start Support Services for Children programs. No later than June 1, 1994, the superintendent shall submit to the Governor, the secretary, the agency secretary, and the Legislature the results of that evaluation and a summary of the reports submitted under subdivision (a).

(1) The evaluation shall focus on education, health, and social outcome measures as appropriate. These shall include, but not be limited to, attendance, academic performance, dropout rates, pupil grades, postsecondary education or training, immunizations, birth weights, diagnostic screening, self-esteem, out-of-home placement rates, child protective services referrals, family functioning, and school staff and administration participation.

(2) Additional annual evaluations shall be conducted subject to additional funding being made available for purposes of this chapter in subsequent fiscal years.

Article 4. Local Agency Collaboration

8806. (a) Each local educational agency or consortium applying for a grant under this chapter shall establish procedures to ensure on-going consultation and collaboration with local agencies for the purposes set forth in subdivision (c). The consultation and collaboration process shall involve, at a minimum, parents or guardians and teachers of eligible pupils and representatives of each member agency or private partner who will provide, or is anticipated to provide, services pursuant to this chapter.

(b) If the local educational agency or consortium is located within a county that has established an interagency children's services coordinating council pursuant to Chapter 12.8 (commencing with Section 18986), of Part 6 of Division 9 of the Welfare and Institutions Code, any Healthy Start Support Services for Children Grant Program proposal submitted under this chapter first shall be approved by that council. The implementation of any program developed pursuant to this chapter shall be subject to the regular review of the interagency children's services coordinating council. The local educational agency or consortium may engage in those activities authorized pursuant to Article 3 (commencing with Section 18986.20) of Chapter 12.8 of Part 6 of Division 9 of the Welfare and Institutions Code provided that the interagency children's services coordinating council first approves those activities. The interagency children's services coordinating council or its members may be designated to fulfill the responsibilities of the consultation and collaboration process required by this article.

(c) Responsibilities of individuals designated for consultation and

collaboration by the local educational agency or consortium shall include, but not be limited to, the following:

(1) Participate in the development of the program during the planning stages.

(2) Participate with the local educational agency or consortium in the design and operation of the program.

(3) Facilitate communication between the local educational agency or consortium and state, local, and community-based organizations providing support services to children.

(4) Make recommendations to appropriate organizations regarding ways to improve delivery of support services to children, and in the most cost-effective manner.

Article 5. Fiscal Provisions

8807. (a) The State Department of Education shall be required to implement this chapter only to the extent that funds are apportioned for that purpose under the annual Budget Act, or are made available to the department for the purposes of this chapter from federal sources. It is the intent of the Legislature that the superintendent, in consultation with the secretary and the agency secretary, seek and utilize any federal funds that may be made available for the purposes of this chapter.

(b) All money appropriated by the Legislature to the superintendent for purposes of the Healthy Start Support Services for Children Act, shall be allocated by the superintendent to local educational agencies or consortia that have been selected to participate in the grant program. Any amount not allocated during a fiscal year may be carried over to the subsequent fiscal year. In order to ensure that those local educational agencies or consortia that receive planning grants will be eligible to receive operational grants, a portion of any funds appropriated during a fiscal year may be reserved for allocation as operational grants in future fiscal years.

(c) To the extent permitted by federal law, any funding made available to a local educational agency or consortium shall be subject to all of the following conditions:

(1) The program is open to children without regard to any child's religious beliefs or any other factor related to religion.

(2) No religious instruction is included in the program.

(3) The space in which the program is operated is not used in any manner to foster religion during the time used for operation of the program.

SEC. 2. (a) In the event that Assembly Bill 1650 is enacted and becomes effective on or before January 1, 1992, and that bill adds Part 4 (commencing with Section 4370) to Division 4 of the Welfare and Institutions Code, establishing the School-based Early Mental Health Intervention and Prevention Services for Children Act of 1991, it is the intent of the Legislature that, no later than the 1993–94 fiscal year, a single schoolsite that receives funding under that program

and the program established under Section 1 of this act, shall combine and subsume assistance, including state-level assistance, and oversight assistance received under both programs under the program established under Section 1 of this act.

(b) In the event that Assembly Bill 165 is enacted and becomes effective on or before January 1, 1992, and that bill adds Chapter 5 (commencing with Section 55450) to Part 29 of the Education Code, establishing the CalSTAR Early Intervention and Prevention Program, it is the intent of the Legislature that, no later than the 1993–94 fiscal year, a single schoolsite that receives funding under that program and under the program established under Section 1 of this act, shall combine and subsume the assistance and oversight assistance received under both programs under the program established by Section 1 of this act.

CHAPTER 760

An act to amend Sections 60601, 60602, 60603, 60604.5, 60700, and 60701 of, to add Sections 60600.1, 60602.5, 60604.8, and 60604.9 to, and to repeal Sections 60603.5 and 60604.7 of, and to repeal Chapter 5 (commencing with Section 60600) of Part 33 of, the Education Code, relating to education, and making an appropriation therefor.

[Approved by Governor October 9, 1991 Filed with Secretary of State October 9, 1991]

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

SECTION 1. The Legislature finds and declares all of the following:

(a) The purpose of the California public school system is to facilitate the development of each and every one of its pupils to become a self-motivated, competent, and lifelong learner.

(b) Every facet of the California public school system should be designed and operated explicitly to further the development of California's pupils as self-motivated, competent, and lifelong learners.

(c) In order to ascertain how best to design an educational program to enable each pupil to become self-motivated and competent learners, it is valuable to assess each pupil's level of development.

(d) The primary purpose of every testing and assessment system shall be the learning needs of the pupil; that is, to determine whether the pupil's instructional and curricular programs are effective and to ascertain the academic needs of individuals and groups within schools to enable the teacher and school to best design an educational program that furthers the development of each pupil.

SEC. 1.3. The Legislature finds and declares that the current

pupil assessment system does not meet the purposes described in Section 1. The Legislature further finds and declares all of the following:

(a) California pupils take a variety of tests to fulfill state and school district requirements, to qualify for certain federally funded programs, to meet college admission requirements, and for other purposes. As a result, valuable instructional time is used for administering tests that may be duplicative, may not be well aligned with what pupils are learning in class, may not be evaluated and returned to schools until several months after the testing, and often do not provide information on individual pupil performance that teachers can use to improve the instructional program. Those tests seldom provide teachers and schools the information required to assist them to improve their teaching and educational programs.

(b) Existing achievement tests, which rely heavily on multiple choice testing methods, measure certain skills and knowledge quite effectively and efficiently. Nevertheless, there is a need for greater emphasis on testing that requires pupils to demonstrate more explicitly that they can use their knowledge to solve problems and to communicate the results of their learning.

(c) California schools do not have a clearly articulated set of performance standards for each level of learning. As a result, there is no consistent system that pupils and parents can use to assess the performance of schools and school districts in providing effective programs and to measure the academic achievement of pupils.

(d) The five grade levels currently tested under the California school assessment program do not provide the most efficient assessment of overall pupil achievement.

SEC. 1.5. Section 60600.1 is added to the Education Code, to read:

60600.1. This chapter shall remain in effect only until January 1, 1995, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1995, deletes or extends that date.

SEC. 2. Section 60601 of the Education Code is amended to read:

60601. (a) It is the intent of the Legislature in enacting this chapter to provide a system of individual assessment of pupils that has, as its primary purpose, the improvement of instruction for pupils. That system shall include, but not be composed exclusively of, authentic performance-based assessment. The assessments should assist teachers, schools, and school districts in designing educational programs that best enable pupils to become self-motivated, competent, and lifelong learners. It is further the intent of the Legislature in enacting this chapter to determine the effectiveness of school districts and schools in assisting pupils to master the fundamental educational skills toward which instruction is directed. The program of statewide testing shall provide the public, the Legislature, and school districts with evaluative information regarding the various levels of proficiency achieved by different groups of pupils of varying socioeconomic backgrounds.

(b) It is also the intent of the Legislature in enacting this chapter

to provide a statewide assessment system that would ascertain the following:

(1) The progress of individual pupils toward the goals of becoming self-motivated, competent, and lifelong learners.

(2) The learning levels, status, and styles of particular groups of pupils in order to better design programs for those groups that enable them to become self-motivated, competent, and lifelong learners.

(3) The success of particular methods of teaching and educational programs or schools, or both, in promoting the development of self-motivated, competent, and lifelong learners.

(c) The Legislature finds and declares that assessment is an integral part of instructional improvement and an important means by which California's citizens can determine if local and state level education reform is resulting in improved teaching and learning for all pupils. Accordingly, the statewide pupil assessment program should provide information to teachers, schools, school districts, state and local policymakers, and the public regarding the effectiveness of instructional programs for pupils. That information also should assist state and local policymakers to allocate education resources in a manner that provides maximum educational opportunity for all pupils. In order to accomplish the goals set forth in subdivisions (a), (b), and (c), the Legislature finds and declares, therefore, that California's testing system should be improved, coordinated, and consolidated to do all of the following:

(1) First and foremost, provide information on the status and progress of individual pupils to those pupils, their parents, and their teachers. This information should be designed to assist in the improvement of teaching and learning in California public classrooms and other purposes, including, but not limited to, informing parents of their children's academic progress, helping pupils and their parents to make wise educational and career or occupational plans; providing potential employers with information to assist in the selection of candidates for training, internships, and hiring; providing institutions of higher education with information to assist in the selection and placement of high school pupils; and providing school districts with a mechanism to certify that all pupils have met designated standards of proficiency. The Legislature recognizes that, in addition to statewide assessments that will occur at the grade levels specified in this chapter, local school districts will conduct ongoing pupil assessments and provide information regarding pupil performance based on those assessments on a regular basis to parents and schools.

(2) Develop a set of statewide performance standards in all major subject areas to serve as the basis for reporting results for individual pupils and for groups of pupils. These standards should be designed to identify expected achievement benchmarks by grade level.

(3) Provide end-of-course examinations in all major subject areas at the middle school and high school levels to inform pupils

regarding their level of proficiency and to inform teachers regarding their teaching effectiveness, as measured against statewide standards.

(4) Accomplish a net reduction in the number of different tests administered.

(5) Ensure that the tests measure the knowledge and skills necessary so that each pupil may participate fully in lifelong learning, citizenship, employment, and where appropriate, postsecondary educational options.

(6) Make assessment an integral part of the instructional process, pursuant to which all pupils have the maximum opportunity to demonstrate what they know; to think, problem solve, and apply their knowledge in testing situations; and to be assisted and motivated through the assessment process to reach higher levels of learning.

(7) Design and administer the assessment practices to facilitate the development of the learner, to assist in the design of the process of teaching and learning and to be sensitive to, fair to, and respectful of, the integrity of the individual pupil and his or her language, culture, and disability.

(8) Ensure that all assessment procedures, items, instruments, and scoring systems are rigorously reviewed to ensure that they do not use procedures, items, instruments, or scoring practices that are racially, culturally, or gender biased.

(9) Provide information to pupils, teachers, schools, and school districts on a timely basis so that the information can be used to further the development of the pupil and to improve the educational program.

(10) Develop test score performance levels that are comparable to the performance levels of the National Education Goals Panel so that California's local and state test results are reported in a manner that corresponds to the national test results, provided, however, that the integrity of the state system, as set forth in this section, shall not be compromised. Test results should be reported in terms describing a pupil's academic capabilities and in terms of employment skills possessed by the pupil, and should not report only numerical or percentile scores.

(d) It is the intent of the Legislature, pursuant to this article, to begin a planning and implementation process to enable the Superintendent of Public Instruction to accomplish the goals set forth in this section.

SEC. 3. Section 60602 of the Education Code is amended to read:

60602. As used in this chapter:

(a) "Achievement test" means any standardized test that measures or attempts to measure the level of performance that a pupil has attained in one or more courses of study. It shall include (1) tests in basic skills courses administered annually, and (2) tests in content courses administered from time to time as designated by the State Board of Education.

(b) "Physical fitness test" means any test that addresses body structure and composition, and cardiovascular, musculoskeletal, and neuromuscular functions.

(c) "Statewide pupil assessment program" means the systematic achievement testing of all pupils in grades 4, 5, 8, and 10, and the health-related physical fitness testing of all pupils in grades 5, 7, and 9, required by this chapter in all schools within each school district by means of tests designated by the State Board of Education.

(d) "Basic skills courses" means those subjects that involve, among other skills, memorization and mastery of specific functions, including, but not limited to, reading, spelling, basic mathematics, and effectiveness of written expression.

(e) "Content courses" means those subjects that require the integration of factual matter, logical analysis, the solution by the pupil of posed problems, the drawing of logical inferences, the use of critical thinking, and the communication of ideas. These subjects shall include, but are not limited to, literature, history, mathematics, and science.

(f) "End of course exams" means assessments of pupil achievement in academic subjects or vocational fields as measured against statewide performance standards. These exams shall include, but not be limited to, the Golden State Examination established pursuant to Section 60700.

SEC. 4. Section 60602.5 is added to the Education Code, to read:

60602.5. (a) The Superintendent of Public Instruction shall design and implement a statewide pupil assessment program to implement the testing requirements of this article in accordance with the objectives set forth in Section 60601. That program shall include the following:

(1) A method for producing valid, reliable individual pupil scores.

(2) Statewide performance standards that allow pupils to demonstrate their integration of knowledge across major subject areas.

(3) An assessment system that includes, but is not composed exclusively of, authentic performance-based assessment.

(4) End-of-course examinations in all major subject matter fields.

(5) A statewide system that integrates both local and state testing in a common framework.

(6) The alignment of assessment with the knowledge and skills called for under the curriculum frameworks adopted by the State Board of Education.

(b) The superintendent shall develop and submit to the Legislature, no later than March 1, 1992, a five-year cost and implementation plan for the program described in subdivision (a).

(c) The elements to be included in the program described in subdivision (a) shall include, beginning in the 1991–92 academic year, all of the following:

(1) The development and initial field testing of a system for providing reliable, comparable individual pupil results to pupils,

parents, teachers, and potential employers.

(2) Work in the development of new performance-based assessments limited to the grade levels and subject areas specified in Section 60603.

(3) The statewide administration, scoring, and reporting of tests in grade 8.

(4) The administration and reporting of individual pupil results on end-of-course examinations in beginning algebra, geometry, United States history, economics, biology, and chemistry.

(d) The State Department of Education shall review and approve other pupil tests available for school district use, with particular attention to their alignment with the curriculum frameworks adopted by the State Board of Education and other state and national models and standards of teaching and testing practice. The statewide subject matter projects authorized under Article 1 (commencing with Section 99200) of Chapter 5 of Part 65 shall assist in the review of the tests.

(e) In recognition of the fact that not all elements as stated in subdivisions (a) and (c) of this section can be achieved at one time or within a single year, development and implementation of a system for providing reliable, comparable individual pupil results shall be completed prior to any expansion and development, or both, of new performance-based assessments except to the extent that performance-based assessments are an integral part of the system for providing individual pupil results.

SEC. 5. Section 60603 of the Education Code is amended to read:

60603. The State Board of Education shall:

(a) Require a testing program in all school districts.

(b) Require the State Department of Education to submit and recommend achievement tests to the State Board of Education for approval and adoption. The adopted tests shall be printed or purchased and distributed to the various school districts in the state by the State Department of Education.

(c) Develop a testing method that will obtain an accurate estimate of individual pupil performance, school performance, school district performance, and statewide performance of pupils in grades 4, 5, 8, and 10, in basic skills courses and content courses. That testing method may incorporate the use of direct writing assessment and other performance-based assessment, and otherwise maximize the opportunity for individual pupils to fully demonstrate their knowledge and problem-solving skills. For purposes of this article, "performance-based assessment" involves, but is not limited to, a pupil's demonstration of knowledge and skills by writing an essay response to a question, conducting an experiment, constructing a diagram or model, or orally explaining a solution to a problem. "Direct writing assessment" means that performance-based assessment under which pupils use written expression to demonstrate reading comprehension and writing skills.

Under this testing method, the State Department of Education

shall annually require that each district administer a statewide test to all pupils in grades 4, 5, 8, and 10. The subject areas of reading, written expression, mathematics, history/social science, and science shall be addressed by that test. It is the intent of the Legislature that, to the extent funding is provided for this purpose, additional subject areas, including, but not limited to, the visual and performing arts, shall be included in the statewide test for grades 4 or 5, and 8. Tests in the visual and performing arts shall be designed in a manner that does not undermine creativity. Notwithstanding any other provision of law, the testing provided for under this article shall address, in grade 4, only the subject areas of reading, written expression, and mathematics, and, in grade 5, only the subject areas of history/social science and science. The testing method may be structured in a way which allows pupils to demonstrate their integration of knowledge across subject matters. The results of the grade 10 test may serve as preliminary indicators of attainment of that knowledge to provide a basis for pupils, parents, and schools to work together to ensure that all pupils have met statewide performance standards by the end of high school. The department shall determine whether pupils in a given school shall be administered the entire test or whether the pupils shall be administered a portion of the test which will be representative of all the test objectives, goals, or categories of items on the entire test. The department may provide assistance to school districts in the implementation of the testing method established pursuant to this subdivision.

(d) Make available models of exemplary assessment instruments which classroom teachers may use to evaluate the effectiveness of the instructional program in the elementary grades. Schools shall be encouraged to use the model assessments to measure the extent to which pupils in the primary grades have acquired the appropriate knowledge and skills in reading, written expression, mathematics, history/social science, and science, as addressed in the state curriculum frameworks and under the assessment program set forth in this article beginning in grade 4.

(e) Adopt regulations for the conduct and administration of the testing program.

(f) Award contracts to develop achievement testing instruments to be used for the purposes of this section, according to competitive bidding procedures.

SEC. 6. Section 60603.5 of the Education Code is repealed.

SEC. 7. Section 60604.5 of the Education Code is amended to read:

60604.5. The State Department of Education shall develop a plan to analyze the results of the state testing program scores for grades 4, 5, 8, and 10 to identify factors that are related to educational success or failure and shall submit to the Legislature annually a budget to perform those analyses.

SEC. 8. Section 60604.7 of the Education Code is repealed.

SEC. 9. Section 60604.8 is added to the Education Code, to read:

60604.8. It is the intent of the Legislature that the Superintendent of Public Instruction shall, to the extent resources are provided for this purpose:

(a) Conduct and publish reviews of pupil tests for pupils who intend to enter the work force upon graduation from high school.

(b) Examine the feasibility of developing authentic, performance-based vocational certification exams to be used in assessing those pupils.

SEC. 9.5. Section 60604.9 is added to the Education Code, to read:

60604.9. (a) Each pupil shall have an individual record of accomplishment by the end of the 12th grade that includes the results of the grade 10 test, or retakes of that test in grades 11 and 12, results of end-of-course exams he or she chose to take, and whatever vocational education certification exams he or she chose to take, as well as evidence of job experience and other valued accomplishments.

(b) Neither the grade 10 test, nor any earlier statewide assessment, shall be used for the placement or tracking of a pupil, which is defined as assigning or counseling a pupil into a separate sequence of courses that limit the options of that pupil in regards to college preparation, technical preparation, or any other career path that the pupil selects. To assure that these assessments will not be used for tracking, any pupil who wishes to improve his or her performance on the grade 10 test may take all or any portion of the grade 10 test again in grade 11 or 12, or both.

(c) It is the intent of this legislation that school districts and schools shall use the results of the grade 10 test, as well as all earlier assessments, to provide appropriate support to pupils, parents, and teachers in order to assist pupils in strengthening their development as learners, as reflected in the grade 10 test, and thereby to improve their performance in subsequent assessments.

SEC. 10. Section 60700 of the Education Code is amended to read:

60700. There is hereby established the Golden State Examination Program for the purpose of administering the Golden State Examination to pupils enrolled in public high schools. The Golden State Examination shall measure pupil achievement under statewide standards of competency in academic subjects and shall adopt a special honors designation and insignia on a high school diploma for qualifying pupils. Participation in the Golden State Examination Program shall be voluntary on the part of each school district maintaining a high school. The governing board of each participating school district shall determine the extent to which pupils of the district shall be required to participate in the Golden State Examination.

SEC. 11. Section 60701 of the Education Code is amended to read:

60701. (a) On or before March 15, 1985, the Superintendent of Public Instruction shall prepare, with the cooperation of representatives from institutions of higher education, school districts, and certificated personnel, academic subject matter

examinations for the Golden State Examination in each of the following academic subject areas:

(1) English literature and composition.

(2) Mathematics.

(3) Laboratory sciences.

(4) Foreign languages.

(5) United States history.

(6) Health sciences.

(7) Other academic subjects that are a part of the high school curriculum, including, but not limited to, the visual and performing arts, as may be designated by the superintendent.

(b) The superintendent shall adopt rules and regulations establishing procedures for the administration and assessment of the Golden State Examination.

The adopted rules and regulations shall establish minimum achievement scores for eligibility for an honors designation and insignia on a high school diploma for pupils with qualifying scores on one or more academic subject matter examinations. The superintendent shall provide school districts with the necessary materials for the conferring of honors. The adopted rules and regulations also shall require participating school districts to notify pupils of the opportunity to take the Golden State Examination, to administer the examinations in accordance with the procedures established by the superintendent, and to affix the appropriate honors designation and insignia on high school diplomas.

(c) It is the intent of the Legislature that the Superintendent of Public Instruction, the President of the University of California, the Chancellor of the California State University, and the Chancellor of the California Community Colleges shall work together to determine the feasibility of the joint development and scoring by those institutions of the Golden State Examination in written composition and of using the results of that test to assist in postsecondary admission and course placement.

SEC. 12. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

SEC. 13. The Superintendent of Public Instruction shall make annual reports to the Governor, the Department of Finance, and the Legislature on the progress in implementing a system to provide reliable and comparable individual pupil assessment results.

SEC. 14. The sum of nine million two hundred fifty thousand dollars ($9,250,000) is hereby appropriated from the General Fund to the Superintendent of Public Instruction for the purpose of operating the statewide pupil assessment program. Of that amount five million dollars ($5,000,000) shall be apportioned by the Superintendent of Public Instruction to one or more school districts or county offices of education for the provision of services relating to the development and implementation of the statewide pupil assessment program required by this act.

CHAPTER 761

An act to amend Sections 30803 and 30805 of, and to add Sections 30809, 30810, and 30821.6 to, the Public Resources Code, relating to coastal resources.

[Approved by Governor October 9, 1991. Filed with Secretary of State October 10, 1991.]

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

SECTION 1. Section 30803 of the Public Resources Code is amended to read:

30803. (a) Any person may maintain an action for declaratory and equitable relief to restrain any violation of this division or of a cease and desist order issued pursuant to Section 30809 or 30810. On a prima facie showing of a violation of this division, preliminary equitable relief shall be issued to restrain any further violation of this division. No bond shall be required for an action under this section.

(b) A court may stay the operation of the cease and desist order after it provides notice to the commission and holds a hearing. Any such stay may be imposed or continued only if it is not against the public interest.

SEC. 2. Section 30805 of the Public Resources Code is amended to read:

30805. Any person may maintain an action for the recovery of civil penalties provided for in Section 30820, 30821, or 30821.5.

SEC. 3. Section 30809 is added to the Public Resources Code, to read:

30809. (a) If the executive director determines that any person or governmental agency has undertaken, or is threatening to undertake, any activity that (1) may require a permit from the commission without securing a permit or (2) may be inconsistent with any permit previously issued by the commission, the executive director may issue an order directing that person or governmental agency to cease and desist. The order may be also issued to enforce any requirements of a certified local coastal program or port master plan, or any requirements of this division which are subject to the

jurisdiction of the certified program or plan, under any of the following circumstances:

(1) The local government or port governing body requests the commission to assist with, or assume primary responsibility for, issuing a cease and desist order.

(2) The commission requests and the local government or port governing body declines to act, or does not take action in a timely manner, regarding an alleged violation which could cause significant damage to coastal resources.

(3) The local government or port governing body is a party to the violation.

(b) The cease and desist order shall be issued only if the person or agency has failed to respond in a satisfactory manner to an oral notice given in person or by telephone, followed by a written confirmation, or a written notice given by certified mail or hand delivered to the landowner or the person performing the activity. The notice shall include the following:

(1) A description of the activity which meets the criteria of subdivision (a).

(2) A statement that the described activity constitutes development which is in violation of this division because it is not authorized by a valid coastal development permit.

(3) A statement that the described activity be immediately stopped or the alleged violator may receive a cease and desist order, the violation of which may subject the violator to additional fines.

(4) The name, address, and phone number of the commission or local government office which is to be contacted for further information.

(c) The cease and desist order may be subject to such terms and conditions as the executive director may determine are necessary to avoid irreparable injury to any area within the jurisdiction of the commission pending action by the commission under Section 30810.

(d) The cease and desist order shall be effective upon its issuance, and copies shall be served forthwith by certified mail upon the person or governmental agency subject to the order.

(e) A cease and desist order issued pursuant to this section shall become null and void 90 days after issuance.

SEC. 4. Section 30810 is added to the Public Resources Code, to read:

30810. (a) If the commission, after public hearing, determines that any person or governmental agency has undertaken, or is threatening to undertake, any activity that (1) requires a permit from the commission without securing a permit or (2) is inconsistent with any permit previously issued by the commission, the commission may issue an order directing that person or governmental agency to cease and desist. The order may also be issued pursuant to the request of a city or county for an activity that is inconsistent with the permit requirements of the certified local coastal program of that city or county.

(b) The cease and desist order may be subject to such terms and conditions as the commission may determine are necessary to ensure compliance with this division, including immediate removal of any development or material or the setting of a schedule within which steps shall be taken to obtain a permit pursuant to this division.

(c) Notice of the public hearing on a proposed cease and desist order shall be given to all affected persons and agencies and the order shall be final and effective upon the issuance of the order. Copies shall be served forthwith by certified mail upon the person or governmental agency subject to the order and upon other affected persons and agencies who appeared at the hearing or requested a copy. The notice shall include a description of the civil remedy to a cease and desist order, authorized by Section 30803.

SEC. 5. Section 30821.6 is added to the Public Resources Code, to read:

30821.6. (a) Any person or governmental agency who intentionally or negligently violates any cease and desist order issued, reissued, or amended by the executive director or the commission may be liable civilly in a sum of not to exceed six thousand dollars ($6,000) for each day in which that violation persists. Any actual penalty imposed shall be reasonably proportionate to the damage suffered as a consequence of the violation.

(b) Sections 30809 and 30810 and subdivision (a) of this section do not authorize the issuance or enforcement of any cease and desist order as to any activity undertaken by a local governmental agency pursuant to a declaration of emergency by the board of supervisors of the county in which the activity is being or may be undertaken.

CHAPTER 762

An act to amend Sections 1348 and 1350 of, and to add Chapter 4.1 (commencing with Section 1385) to Division 2 of, the Fish and Game Code, relating to conservation.

[Approved by Governor October 9, 1991 Filed with Secretary of State October 10, 1991.]

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

SECTION 1. Section 1348 of the Fish and Game Code is amended to read:

1348. (a) The board shall authorize the acquisition of such real property, rights in real property, water, or water rights as may be necessary to carry out the purposes of this chapter. The board may authorize acquisition by the department, but the department shall not acquire any of such property by eminent domain proceedings except such property as may be necessary to provide access roads or

rights-of-way to areas to be used for fishing the coastal waters of the Pacific Ocean, and then only if the board of supervisors of the affected county has agreed by resolution to those proceedings for each parcel of land, and has further agreed by resolution to maintain the road or right-of-way. The board may authorize acquisition by the State Public Works Board, which may effect acquisitions pursuant to the Property Acquisition Law, Part 11 (commencing with Section 15850) of Division 3 of Title 2 of the Government Code.

(b) For the purposes of this chapter and Chapter 4.1 (commencing with Section 1385), the board may authorize the acquisition of interests in real property and water rights by means of gifts, purchases, leases, easements, the transfer or exchange of property for other property of like value, transfers of development rights or credits, and purchases of development rights, conservation easements, and other interests.

(c) To further implement this chapter and Chapter 4.1 (commencing with Section 1385), the board may authorize the department to do any of the following:

(1) Accept federal grants and receive gifts, donations, subventions, rents, royalties, and other financial support from public or private sources. Proceeds received from any of these sources shall be deposited in the Wildlife Restoration Fund.

(2) Notwithstanding any other provision of law, lease, sell, exchange, or otherwise transfer any real property, interest in real property, or option acquired pursuant to this chapter. Proceeds from transactions entered in pursuant to this paragraph shall be deposited in the Wildlife Restoration Fund.

(3) Lease degraded potential wildlife habitat real property to nonprofit organizations, local governmental agencies, or state and federal agencies if the lessee agrees to restore the real property to its highest possible wildlife habitat value and maintain the real property at that highest possible wildlife habitat value. Proceeds from any lease or rental and interest thereon shall be deposited in the Wildlife Restoration Fund.

(4) Acquire former wildlife habitat real property, including riparian habitat real property, restore and sell the real property, or any interest therein, to private owners, local governmental agencies, or state departments and agencies or exchange the property for other real property, if a written and recorded agreement is first secured to keep and maintain the real property as wildlife habitat in perpetuity. The agreement shall contain a reversion if the real property sold or exchanged is not maintained as wildlife habitat. The agreement containing the reversion shall be set forth in any conveyance transferring any real property, interest in real property, or option subject to this section. Proceeds from the sales shall be deposited in the Wildlife Restoration Fund.

SEC. 2. Section 1350 of the Fish and Game Code is amended to read:

1350. (a) The department shall, when authorized by the board,

construct in accordance with law such facilities as are suitable for the purpose for which the real property or rights in real property or water, or water rights were acquired. Each completed project shall be managed and maintained by the department.

The department, with the approval of the board, may enter into agreements with any other department or agency of this state, any local agency, or nonprofit organization, to provide for the construction, management, or maintenance of the facilities authorized by the board, and such other department or agency of this state, local agency, or nonprofit organization, and each of them may construct, manage, or maintain those facilities pursuant to the agreement. Work performed by a local agency or nonprofit organization under those agreements is exempt from Chapter 3 (commencing with Section 14250), of Part 5 of Division 3 of Title 2 of the Government Code. However, nothing in this section shall be construed to exempt any work from Part 7 (commencing with Section 1720) of Division 2 of the Labor Code.

(b) The department, when authorized by the board, may apply for and accept federal grants, and receive gifts, donations, and other financial support from public or private sources to be used for fish and wildlife habitat enhancement, including riparian habitat restoration projects on real property or waters for which the state obtains an interest. Funds received from any of those sources shall be deposited in the Wildlife Restoration Fund.

(c) The board may award grants or loans to nonprofit organizations, local governmental agencies, federal agencies, and state agencies for the purposes of fish and wildlife habitat restoration, enhancement, management, protection and improvement of riparian resources, and for development of compatible public access facilities in the same manner and subject to the same terms and conditions as prescribed in Section 31116 of the Public Resources Code. Proceeds from repayment of any loans and the interest thereon shall be deposited in the Wildlife Restoration Fund.

SEC. 3. Chapter 4.1 (commencing with Section 1385) is added to Division 2 of the Fish and Game Code, to read:

CHAPTER 4.1. CALIFORNIA RIPARIAN HABITAT CONSERVATION PROGRAM

1385. This chapter shall be known and may be cited as the California Riparian Habitat Conservation Act.

1386. The Legislature finds and declares all of the following:

(a) California's rivers, wetlands, and waterways, and the fisheries and wildlife habitat they provide, are valuable and finite resources that benefit the people of the state and are threatened with deterioration or degeneration that may endanger the natural beauty and productivity of these valuable resources.

(b) The public interest requires the coordinated protection of rivers and riparian resources in order to maintain an equilibrium

between the natural endowment of, and manmade alterations to, California's river environment, and in order to preserve the scenic beauty of these natural resources and the recreational and economic benefits they provide.

(c) By virtue of the special conditions and circumstances of the natural ecology, the increasing human populations and needs in the state, and the numerous governmental agencies with an interest in coordinating activities which affect rivers and riparian habitat resources, there is a need for a coordinated state rivers and riparian habitat protection program.

1387. The Wildlife Conservation Board shall establish and administer, through the department, the California Riparian Habitat Conservation Program pursuant to this chapter and Chapter 4 (commencing with Section 1300). The purpose and goal of the program is to protect, preserve, and restore riparian habitats throughout the state by the acquisition of interests and rights in real property and waters to the extent deemed necessary to carry out the purposes of the program.

1388. The board, pursuant to this chapter, shall approve projects to acquire, preserve, restore, and enhance riparian habitat throughout the state, and coordinate its activities undertaken pursuant to this program with other resources protection activities of the board and other state agencies.

1389. The preservation and enhancement of riparian habitat shall be a primary concern of the Wildlife Conservation Board and the department, and of all state agencies whose activities impact riparian habitat, including the Department of Conservation, the Department of Boating and Waterways, the Department of Parks and Recreation, the Department of Water Resources, the Department of Forestry and Fire Protection, the State Coastal Conservancy, the California Conservation Corps, the California Tahoe Conservancy, the Santa Monica Mountains Conservancy, the California Coastal Commission, the San Francisco Bay Conservation and Development Commission, and the State Lands Commission.

1390. In order to accomplish the objectives of this chapter, the Wildlife Conservation Board may authorize the department to do all of the following:

(a) Acquire interests in real property and water rights through gift, purchase, lease, easement, and transfer or exchange of easements, development rights or credits, and other interests in real property.

(b) Coordinate its activities under the program with any governmental program for surplus real property sales in the state.

(c) Award grants and loans to local public agencies, state agencies, federal agencies, and nonprofit organizations for the purposes of this program.

(d) For the purposes of this chapter, "nonprofit organization" means any private, nonprofit organization which qualifies for exempt status under Section 501 (c) (3) of the United States Internal

Revenue Code of 1986, and has among its principal charitable purposes the preservation of real property for scientific, historic, educational, recreational, scenic or open-space values, the protection of the natural environment, or the preservation and enhancement of fisheries and wildlife or their habitat.

(e) Exercise any authority and comply with requirements contained in Sections 1348 and 1350, as appropriate, to preserve and enhance riparian habitat for purposes of this chapter.

1391. Grants to nonprofit organizations pursuant to Section 1390 for the acquisition of real property or interests therein shall be subject to all of the following conditions:

(a) The purchase price of any interest in real property acquired by the nonprofit organization may not exceed fair market value as established by an appraisal approved by the Wildlife Conservation Board.

(b) The Wildlife Conservation Board approves the terms under which the interest in real property is acquired.

(c) The interest in real property acquired pursuant to a grant from the Wildlife Conservation Board may not be used as security for any debt to be incurred by the nonprofit organization unless the board approves the transaction.

(d) The transfer of real property acquired pursuant to a grant shall be subject to the approval of the Wildlife Conservation Board and the execution of an agreement between the board and the transferee sufficient to protect the interest of the State of California.

(e) The state shall have a right of entry and power of termination in and over all interests in real property acquired with state funds, which may be exercised if any essential term or condition of the grant is violated.

(f) If the existence of the nonprofit organization is terminated for any reason, title to all interest in real property acquired with state funds shall immediately vest in the state. However, prior to that termination, upon approval of the board, another public agency or nonprofit organization may receive title to all or a portion of that interest in real property by recording its acceptance of title in writing. Any deed or other instrument of conveyance whereby real property is being acquired by a nonprofit organization pursuant to this section shall be recorded and shall set forth the executory interest or right of entry on the part of the state.

SEC. 4. The Wildlife Conservation Board and the Department of Fish and Game shall, if necessary to implement this act, request an augmentation of the funds appropriated to the board by the Budget Act of 1991 in an amount necessary to implement this act instead of redirecting existing resources for that purpose.

CHAPTER 763

An act to amend Section 8574.17 of the Government Code, and to add Sections 765.5 and 765.7 to the Public Utilities Code, relating to transportation, and making an appropriation therefor.

[Approved by Governor October 9, 1991. Filed with Secretary of State October 10, 1991.]

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

SECTION 1. This act shall be known and may be cited as the Safe Rail Transportation Act of 1991.

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

(a) Transportation of hazardous materials by rail and highway is increasing, with a concomitant increase in the potential exposure of the public to hazardous materials spills.

(b) The derailments of two freight trains in July 1991 resulted in the escape of dangerous and toxic materials and highlighted the necessity for tighter controls relating to the transportation of these materials as well as the necessity for improved procedures by government and industry to respond in the best possible coordinated manner to future incidents, in order to protect the health and welfare of the public and the environment.

(c) Additional state participation in the regulation of hazardous materials transportation is consistent with federal law, particularly in situations not addressed by federal law or regulation, and those involving "essentially local safety hazards" on railroad lines.

SEC. 3. Section 8574.17 of the Government Code is amended to read:

8574.17. (a) A state toxic disaster contingency plan established pursuant to this article shall provide for an integrated and effective state procedure to respond to the occurrence of toxic disasters within the state. The plan shall provide for the designation of a lead agency to direct strategy to ameliorate the effects of a toxic disaster, for specified state agencies to implement the plan, for interagency coordination of the training conducted by state agencies pursuant to the plan, and for on-scene coordination of response actions.

Notwithstanding any provision of the plan, the authority for the management of the scene of an on-highway toxic spill or disaster shall be vested in the appropriate law enforcement agency having primary traffic investigative authority on the highway where the incident occurs or in a local fire protection agency as provided by Section 2454 of the Vehicle Code. During the preparation of the toxic disaster contingency plan, the Office of Emergency Services shall adopt the recommendations of the Department of the California Highway Patrol in developing response and on-scene procedures for toxic disasters which occur upon the highways, based upon previous studies for such procedures, insofar as the procedures are not

inconsistent with the overall plan for initial notification of toxic disasters by public agencies and for after-incident evaluation and reporting.

(b) The Office of Emergency Services shall establish a central notification and reporting system to facilitate operation of the state toxic disaster response procedures designated by the toxic disaster contingency plan.

SEC. 4. Section 765.5 is added to the Public Utilities Code, to read:

765.5. (a) The purpose of this section is to provide that the commission takes all appropriate action necessary to ensure the safe operation of railroads in this state.

(b) Not later than July 1, 1992, and annually thereafter, the commission, consistent with Section 434 of Chapter 13 of Title 45 of the United States Code, shall identify track sections which it determines pose local safety hazards, and report on those sites to the Legislature. The commission shall include in its report at least all those sites which have inordinately high derailment rates, as determined by the commission.

(c) Not later than December 31, 1992, the commission shall propose regulations it determines would establish a program to eliminate or reduce the local safety hazards identified in the report prepared pursuant to subdivision (b). The regulations shall include requirements relating to special equipment; operating, inspection, and reporting standards; and recommended capital improvements at each site.

(d) The commission shall dedicate sufficient resources necessary to adequately carry out the State Participation Program for the regulation of rail transportation of hazardous materials as authorized by the Hazardous Material Transportation Uniform Safety Act of 1990 (P.L. 101-615).

(e) On or before July 1, 1992, the commission shall hire a minimum of six additional rail inspectors who are or shall become federally certified, consisting of three additional motive power and equipment inspectors, two signal inspectors, and one operating practices inspector, for the purpose of enforcing compliance by railroads operating in this state with state and federal safety regulations.

(f) On or before July 1, 1992, the commission shall establish, by regulation, a minimum inspection standard to ensure, at the time of inspection, that railroad locomotives, equipment and facilities located in Class I railroad yards in California will be inspected not less frequently than every 180 days, and inspection of all branch and main line track not less frequently than every 12 months.

SEC. 5. Section 765.7 is added to the Public Utilities Code, to read:

765.7. The commission, in conjunction with the California Environmental Protection Agency, shall request, no later than July 1, 1992, the appropriate federal agencies to do all of the following:

(a) Investigate and review other chemical compounds not presently considered to be hazardous or toxic for possible reclassification as hazardous substances.

(b) Require the use of safer cars in rail transportation of all hazardous materials.

(c) Increase the amount of information required on the manifest with regard to any hazardous materials being transported so as to be capable of being understood by personnel involved in emergency, and include information on environmental effects.

(d) The commission shall report to the Legislature on the status of its requests no later than September 30, 1992, and every six months thereafter until September 30, 1995.

SEC. 6. If any provision of this act or the application thereof to any person or circumstances is held invalid, that invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

SEC. 7. This act shall become operative only if Senate Bill 152 of the 1991–92 Regular Session is enacted.

SEC. 8. Notwithstanding any other provision of law, this chapter shall not be construed to make reference to a "California Environmental Protection Agency" for the purposes of compliance with Provision 2 of Item 3400-002-044 of the 1991–92 Budget Act.

SEC. 9. The sum of four hundred eighty thousand dollars ($480,000) is hereby appropriated from the Public Utilities Commission Transportation Reimbursement Account to the Public Utilities Commission for those costs incurred in carrying out the purposes of this act.

CHAPTER 764

An act to add Section 309.7 to the Public Utilities Code, relating to transportation, and making an appropriation therefor.

[Approved by Governor October 9, 1991 Filed with Secretary of State October 10, 1991.]

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

SECTION 1. The Legislature finds and declares all of the following:

(a) Railroad accidents pose a continuing and grave danger to the health and safety of the people of California, and to the environment of the State of California, as exemplified by a recent series of accidents on the Sacramento River, in the Mohave Desert, and in Ventura County.

(b) Prevention of accidents through the adoption and enforcement of operating standards and rules that eliminate unsafe

conditions on railroads is a goal both of federal rail safety legislation and regulations and state safety legislation and regulations.

(c) The California Public Utilities Commission has operated under a mandate from the California Legislature to promulgate and enforce railroad safety measures for 80 years, and has adopted a number of orders and regulations which improve railroad safety within the State of California.

(d) The United States Secretary of Transportation has certified the California Public Utilities Commission as a state agency that may participate in investigative and surveillance activities in connection with enforcement of federal rail safety rules and regulations.

(e) As a certified state agency, the California Public Utilities Commission may enforce both state and federal laws relating to rail safety.

(f) Vigorous enforcement of both state and federal rail safety legislation and regulations by the California Public Utilities Commission can reduce the danger posed by unsafe conditions, operations and practices, before they result in derailments and other accidents.

(g) The recent series of accidents in California demonstrates a need for improvement in the effectiveness and performance of the Safety Division of the California Public Utilities Commission.

(h) Improvement in effectiveness requires both additional resources in the form of inspectors, support staff, and enforcement personnel and a determination by the management of the California Public Utilities Commission to reduce the dangers posed by unsafe conditions and practices by promptly identifying them and vigorously pursuing their correction, using all powers available to them under state and federal law.

(i) Improvement in effectiveness requires the identification, description, and cataloguing of all essentially local safety hazards in California, including the identification of hazardous sites, and the development of special local rules and procedures for reducing the danger of derailment or other accidents at those sites by the California Public Utilities Commission.

(j) In carrying out the purposes of this act, inspectors of the California Public Utilities Commission should pay particular attention to those locomotive, car, track, and signal conditions that will help avoid train accidents and personal injuries.

SEC. 2. Section 309.7 is added to the Public Utilities Code, to read:

309.7. (a) The safety division of the commission shall be responsible for inspection, surveillance, and investigation of the rights-of-way, facilities, equipment, and operations of railroads and public mass transit guideways, and for enforcing state and federal laws, regulations, orders, and directives relating to transportation of persons or commodities, or both, of any nature or description by rail. The safety division shall advise the commission on all matters relating to rail safety, and shall propose to the commission rules, regulations,

orders and other measures necessary to reduce the dangers caused by unsafe conditions on the railroads of the state. The delegation of enforcement responsibility to the rail safety division shall not diminish the power of other agencies of state government to enforce laws relating to employee or environmental safety pollution prevention or public health and safety.

(b) In performing its duties, the safety division shall exercise all powers of investigation granted to the commission, including rights to enter upon land or facilities, inspect books and records, and compel testimony. The commission shall employ sufficient federally certified inspectors to assure at the time of inspection that railroad locomotives and equipment and facilities located in class I railroad yards in California are inspected not less frequently than every 180 days, and inspection of all main and branch line tracks not less frequently than every 12 months. In performing its duties, the safety division shall consult with representatives of railroad corporations, labor organizations representing railroad employees, and the Federal Railroad Administration.

(c) The general counsel shall assign to the safety division the personnel and attorneys necessary to fully utilize the powers granted to the commission by any state law, and by any federal law relating to rail transportation, including, but not limited to, the Federal Rail Safety Act, (45 U.S.C. 421m, et seq.), to enforce safety laws, rules, regulations, and orders and to collect fines and penalties resulting from the violation of any safety rule or regulation.

(d) The activities of the safety division that relate to common carriers by rail shall also be supported by the fees paid by railroad corporations, if any, pursuant to Sections 421 to 424, inclusive. The commission shall report to the Legislature annually on the activities of the safety division, and shall fully document in the report all expenditures of those funds.

SEC. 3. This act shall become operative only if Senate Bill 152 of the 1991–92 Regular Session is enacted.

SEC. 4. If any provision of this act or the application thereof to any person or circumstances is held invalid, that invalidity shall not affect other provisions of applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

SEC. 5. The sum of one million eight hundred thousand dollars ($1,800,000) is appropriated from the California Public Utilities Commission Transportation Reimbursement Account to the California Public Utilities Commission for the purposes of this act, effective January 1, 1992.

CHAPTER 765

An act to add Chapter 10 (commencing with Section 2800) to Division 3 of the Fish and Game Code, relating to fish and game, and making an appropriation therefor.

[Approved by Governor October 9, 1991. Filed with Secretary of State October 10, 1991.]

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

SECTION 1. The Legislature finds and declares all of the following:

(a) The continuing population growth in California will result in increasing demands for dwindling natural resources and result in the continuing decline of the state's wildlife.

(b) There is a need for broad-based planning to provide for effective protection and conservation of the state's wildlife heritage while continuing to allow appropriate development and growth.

(c) Natural community conservation planning is an effective tool in protecting California's natural diversity while reducing conflicts between protection of the state's wildlife heritage and reasonable use of natural resources for economic development.

(d) Natural community conservation planning promotes coordination and cooperation among public agencies, landowners, and other private interests, provides a mechanism by which landowners and development proponents can effectively participate in the resource conservation planning process, provides a regional planning focus which can effectively address cumulative impact concerns, minimizes wildlife habitat fragmentation, promotes multispecies management and conservation, provides one option for identifying and ensuring appropriate mitigation for impacts on fish and wildlife, and promotes the conservation of broad based natural communities and species diversity.

(e) Natural community conservation planning can provide for efficient use and protection of natural and economic resources while promoting greater sensitivity to important elements of the state's critical natural diversity.

(f) Natural community conservation planning is an effective planning process which can facilitate early coordination to protect the interest of the state, the federal government, and local public agencies, landowners, and other private parties.

(g) Natural community conservation planning is a mechanism that can provide an early planning framework for proposed development projects within the planning area in order to avoid, minimize, and compensate for project impacts to wildlife.

(h) Natural community conservation planning is consistent with and will support the fish and wildlife management activities of the Department of Fish and Game in its role as the trustee for fish and

wildlife within the state.

(i) The purpose of natural community conservation planning is to sustain and restore those species and their habitat identified by the Department of Fish and Game which are necessary to maintain the continued viability of those biological communities impacted by growth and development.

SEC. 2. Chapter 10 (commencing with Section 2800) is added to Division 3 of the Fish and Game Code, to read:

CHAPTER 10. NATURAL COMMUNITY CONSERVATION PLANNING

2800. This chapter shall be known and may be cited as the Natural Community Conservation Planning Act.

2805. The definitions in this section govern the construction of this chapter.

(a) "Natural community conservation plan" means the plan prepared pursuant to an agreement entered into in accordance with subdivision (a) of Section 2810. The plan identifies and provides for the regional or areawide protection and perpetuation of natural wildlife diversity, while allowing compatible and appropriate development and growth.

(b) "Wildlife" has the same meaning as defined in Section 711.2.

(c) "Person" has the same meaning as defined in Section 711.2.

2810. The department may enter into agreements with any person for the purpose of preparing and implementing a natural community conservation plan to provide comprehensive management and conservation of multiple wildlife species, including, but not limited to, those species listed pursuant to Article 2 (commencing with Section 2070) of Chapter 1.5. The agreement shall include cost reimbursement provisions pursuant to Section 2840.

2820. Natural community conservation planning may be undertaken by local, state, and federal agencies independently or in cooperation with other persons. The plan shall be consistent with the agreement entered into pursuant to Section 2810 and shall be approved by the department for implementation upon meeting the standards established by the department for natural community conservation.

2825. (a) The department may prepare nonregulatory guidelines for the development and implementation of natural community conservation plans. The guidelines are exempt from Chapter 3.5 (commencing with Section 11340) of Division 3 of Title 2 of the Government Code. The guidelines may include, but are not limited to, all of the following:

(1) Defining the scope of a conservation planning area.

(2) Determining conservation standards, guidelines, and objectives for the planning area.

(3) Appointing one or more advisory committees to review and make recommendations regarding the preparation and

implementation of natural community conservation plans.

(4) Coordinating with local, state, and federal agencies.

(5) Incorporating public input.

(6) Ensuring compatibility with the federal Endangered Species Act (16 U.S.C. Sec. 1531 et seq.).

(7) Obtaining approval of the natural community conservation plan by the department.

(8) Provisions for implementation of the plan.

(9) Monitoring and reporting on plan implementation.

(10) Amending the plan consistent with the initial intent of the plan.

(b) Nothing in this chapter exempts projects proposed in a natural community conservation planning area from the requirements of the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

(c) Natural community conservation plans, as appropriate, shall be implemented pursuant to Section 2081.

(d) To the extent practicable, implementation of natural community conservation plans shall use the services of either the California Conservation Corps or local community conservation corps.

2830. Upon recommendation of the department, the commission may authorize, pursuant to Section 2084, the taking of any candidate species whose conservation, protection, restoration, and enhancement is provided for in a department approved natural community conservation plan consistent with paragraph (6) of subdivision (a) of Section 2825.

2835. The department may permit the taking, as provided in this code, of any identified species whose conservation and management is provided for in a department approved natural communities conservation plan.

2840. (a) The department shall be compensated for the actual costs incurred in participating in the preparation and implementation of natural community conservation plans. These costs may include consultation with other parties to agreements authorized by Section 2810, providing and compiling wildlife and wildlife habitat data, reviewing and approving the final plan, monitoring implementation of the plan, and other activities necessary to the preparation and implementation of a plan.

(b) The department shall be compensated for those expenses identified in subdivision (a) according to a schedule in the agreement authorized by Section 2810.

SEC. 3. This act does not apply to any agreement for the preparation of a habitat conservation plan or natural community conservation plan approved by the Director of Fish and Game at the time of enactment of this act.

CHAPTER 766

An act to add Section 59019 to the Health and Safety Code, and to amend Sections 421, 421.5, 7672, and 7673 of, and to add Article 10 (commencing with Section 7710) to Chapter 1 of Division 4 of, the Public Utilities Code, relating to railroads.

[Approved by Governor October 9, 1991. Filed with Secretary of State October 10, 1991]

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

SECTION 1. The Legislature finds and declares as follows:

(a) There exists a danger to the public and the environment from the rail transportation of hazardous materials in the state.

(b) In one event in July 1991, a train derailment in the area near Dunsmuir, California, caused widespread loss of wildlife, disrupted business and the resort nature of the area, and posed a significant health hazard to residents and tourists.

(c) State action is necessary because the federal government's lists of hazardous materials are incomplete and, thus, do not offer the level of protection needed by the people of our state.

(d) There exists a need to strengthen California's laws in order to prevent and respond to hazardous materials emergencies in order to better safeguard the safety of the public and the environment.

SEC. 2. Section 59019 is added to the Health and Safety Code, to read:

59019. (a) On or before July 1, 1992, and on or before July 1 annually thereafter, the Office of Environmental Health Hazard Assessment shall provide to the Legislature and the Public Utilities Commission, for the purpose of Section 7672 of the Public Utilities Code, a list of commodities, set forth by category, that pose potential threats to the public, property, and the environment when transported on railroad lines in the state. The office shall develop the categories in consultation with the Office of Emergency Services.

(b) The office, in determining which commodities pose potential threats, shall consider both the toxicity of the commodity itself and the toxicity of any potential breakdown elements of the commodity when exposed to air, water, or other chemical agents that the commodity or its byproducts might contact under normal circumstances or in the event of mishandling, accident, or other possible event associated with, transporting the commodity on railroad lines in the state. In developing the list pursuant to this section, the office shall consider excluding those consumer products that are shipped in finished packages which, due to their packaging or quantity, are not likely to pose a hazard to the public or environment in the event of a train derailment or other surface accident. The list shall be used exclusively for the purposes specified in Sections 7711 and 7712 of the Public Utilities Code.

(c) The Public Utilities Commission shall provide the office with all information about railroad operations which the office needs to make the determination required by this section.

SEC. 3. Section 421 of the Public Utilities Code is amended to read:

421. (a) The commission shall annually determine a fee to be paid by every passenger stage corporation, charter-party carrier of passengers, pipeline corporation, for-hire vessel operator, common carrier vessel operator, railroad corporation, and commercial air operator and every other common carrier and related business subject to the jurisdiction of the commission, except as otherwise provided in Article 3 (commencing with Section 431) and Chapter 6 (commencing with Section 5001) of Division 2.

(b) The annual fee shall be established to produce a total amount equal to the amount established in the authorized commission budget for the same year, including adjustments appropriated by the Legislature and an appropriate reserve, to regulate common carriers and related businesses, less the amount to be paid from special accounts or funds pursuant to Section 403, funds from the Transportation Planning and Development Account in the State Transportation Fund, reimbursements, federal funds, other revenues, and unencumbered funds from the preceding year.

(c) The commission shall collect the initial fee from railroad corporations beginning on February 1, 1992, and shall distribute the amounts collected as directed in Senate Bill 152 of the 1991–92 Regular Session.

SEC. 4. Section 421.5 of the Public Utilities Code is amended to read:

421.5. This article does not apply to any interstate or foreign highway carrier registered pursuant to the Interstate and Foreign Highway Carriers' Registration Act (Chapter 2 (commencing with Section 3901) of Division 2) who does not otherwise hold any operating authority from the commission to operate in intrastate commerce.

SEC. 5. Section 7672 of the Public Utilities Code is amended to read:

7672. For purposes of this article, "hazardous material" means any of the following:

(a) A hazardous material as defined in Section 171.8 of Title 49 of the Code of Federal Regulations.

(b) A hazardous material defined in Section 25501 of the Health and Safety Code.

(c) Any commodity listed by the Office of Environmental Health Hazard Assessment pursuant to Section 59019 of the Health and Safety Code.

SEC. 6. Section 7673 of the Public Utilities Code is amended to read:

7673. Each railroad corporation which transports hazardous materials in the state shall do all of the following:

(a) Provide a system map of the state to the Office of Emergency Services and to the Public Utilities Commission, showing practical groupings of mileposts on the system and showing mileposts of stations, terminals, junction points, road crossings, and the locations of natural gas and liquid pipelines in railroad rights-of-way.

(b) Annually submit to the Office of Emergency Services a copy of a publication which identifies emergency handling guidelines for the surface transportation of hazardous materials, except that if the railroad corporation is classified as a class I carrier by the Interstate Commerce Commission pursuant to Subpart A of Part 1201 of Subchapter C of Chapter X of the Code of Federal Regulations, the railroad corporation shall annually submit to the Office of Emergency Services 50 copies of this publication which the Office of Emergency Services shall make available to the Public Utilities Commission and local administering agencies and to other response agencies. These guidelines shall not be considered comprehensive instructions for the handling of any specific incident.

(c) If there is a train incident resulting in a release or an overturned railcar or an impact which threatens a release of a hazardous material, provide the emergency response agency with all of the following information:

(1) A list of each car in the train and the order of the cars.

(2) The contents of each car, if loaded, in the train.

(3) Identification of the cars and contents in the train which are involved in the incident, including, but not limited to, those cars which have derailed.

(4) Emergency handling procedures for each hazardous material transported in or on the involved cars of the train.

SEC. 7. Article 10 (commencing with Section 7710) is added to Chapter 1 of Division 4 of the Public Utilities Code, to read:

Article 10. Railroad Safety and Emergency Planning and Response

7710. For purposes of this article, the following definitions shall apply:

(a) "Commission" shall mean the Public Utilities Commission.

(b) "Director" means the Director of the Office of Emergency Services.

(c) "Fund" means the Rail Accident Prevention and Response Fund created pursuant to Section 7713.

(d) "Office" means the Office of Emergency Services.

(e) "Prevention account" means the Hazardous Spill Prevention Account created, pursuant to Section 7714, in the Railroad Accident Prevention and Response Fund.

(f) "Secretary" means the Secretary of the California Environmental Protection Agency.

7711. On or before July 1, 1992, and on or before July 1 annually thereafter, the commission shall report to the Legislature on sites on

railroad lines in the state it finds to be hazardous. The report shall include, but not be limited to, information on all of the following:

(a) A list, prepared pursuant to Section 59019 of the Health and Safety Code, of all commodities transported on railroad lines in the state that could pose a hazard to the public or the environment in the event of a train derailment or other accident.

(b) A description of the quantities of commodities identified in subdivision (a) that are transported on railroad lines in the state. The commission shall also describe the locations and routes at, and on, which the commodities specified in subdivision (a) are transported. Railroad corporations shall provide to the commission all information necessary to comply with this subdivision.

(c) A list of all railroad derailment accident sites in the state on which accidents have occurred within at least the previous five years. The list shall describe the nature and probable causes of the accidents, if known.

(d) A list of all railroad sites in the state that the commission determines pose a local safety hazard. Factors that the commission shall consider in determining a local safety hazard may include, but need not be limited to, all of the following:

(1) The severity of grade and curve of track.

(2) The value of special skills of train operators in negotiating the particular segment of railroad line.

(3) The value of special railroad equipment in negotiating the particular segment of railroad line.

(4) The types of commodities transported on or near the particular segment of railroad line.

(5) The hazard posed by the release of the commodity into the environment.

(6) The value of special railroad equipment in the process of safely loading, transporting, storing, or unloading potentially hazardous commodities.

(7) The proximity of railroad activity to human activity or sensitive environmental areas.

(e) In determining which railroad sites pose a local safety hazard pursuant to subdivision (d), the commission shall consider the history of accidents at or near the sites. The commission shall not limit its determination to sites at which accidents have already occurred, but shall identify potentially hazardous sites based on the criteria enumerated in subdivision (d) and all other criteria that the commission determines influence railroad safety.

7712. On or before January 1, 1993, the commission shall adopt regulations, based on its findings and not inconsistent with federal law. The commission may amend or revise the regulations as necessary thereafter, to reduce the potential railroad hazards identified in Section 7711. In adopting the regulations, the commission shall consider at least all of the following:

(a) Establishing regulations for the transporting of commodities which the commission has listed pursuant to Section 7711. These

standards shall include, but need not be limited to, all of the following:

(1) Requiring railroad operators to maintain on trains easily accessible and identifiable information describing the chemical composition, trade name, potential hazards, and proper emergency response procedures for each category of hazardous commodity specified in subdivision (a) of Section 7711 when loaded, transported, stored, or unloaded on or from their trains.

(2) Requiring railroad operators to maintain, on all trains that carry the commodities specified in subdivision (a) of Section 7711, emergency response telephone and radio contacts for all manufacturers of commodities listed pursuant to subdivision (a) of Section 7711, of all local railroad emergency response agencies on the train's route, for the Office of Emergency Services, and for all applicable federal emergency response agencies.

(3) Requiring railroad operators to post on railroad cars containing commodities identified in subdivision (a) of Section 7711 easily identifiable placards identifying the name, type, and nature of the commodity.

(b) Establishing special railroad equipment standards for trains operated on railroad sites identified as posing a local safety hazard pursuant to subdivision (d) of Section 7711. These standards may include, but need not be limited to, standards for all of the following:

(1) Sizes, numbers, and configurations of locomotives.

(2) Brakes.

(3) Construction of train cars that carry the commodities specified in subdivision (a) of Section 7711.

(c) Establishing special train operating standards for trains operated over railroad sites identified as posing a local safety hazard pursuant to subdivision (d) of Section 7711. These standards may include, but need not be limited to, standards for all of the following:

(1) Length, weight, and weight distribution of trains.

(2) Speeds and accelerations of trains.

(3) Hours of allowable travel.

(d) Establishing special training, personnel, and performance standards for operators of trains that travel on railroad sites identified as posing a local safety hazard pursuant to subdivision (d) of Section 7711.

(e) Establishing special inspection and reporting standards for trains operated on railroad sites identified as posing a local safety hazard pursuant to subdivision (d) of Section 7711.

7713. (a) The Rail Accident Prevention and Response Fund is hereby created in the State Treasury, and the money in the fund is available for appropriation by the Legislature. The secretary shall administer the fund and the prevention account in accordance with this article, and shall develop and adopt regulations and guidelines necessary to carry out and enforce this article.

(b) The State Board of Equalization shall implement the collection of the fee imposed pursuant to Section 7714.5 in

accordance with regulations adopted pursuant to Section 7713.

(c) The adoption of regulations pursuant to this section shall be considered by the Office of Administrative Law as an emergency necessary for the immediate preservation of the public peace, health and safety, and general welfare. Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, emergency regulations adopted by the secretary and the State Board of Equalization pursuant to this section shall be filed with, but not repealed by, the Office of Administrative Law, and shall remain in effect until revised or repealed by the secretary.

7714. (a) The Hazardous Spill Prevention Account in the Railroad Accident Prevention and Response Fund is hereby created. The moneys deposited in the prevention account shall be subject to annual appropriation in the Budget Act or other appropriation by the Legislature. The amount deposited in the prevention account and available for appropriation shall not exceed three million dollars ($3,000,000) in any calendar year.

(b) The moneys in the prevention account may be expended by the secretary for any of the following purposes:

(1) Creation, support, and maintenance of the Railroad Accident Prevention and Immediate Deployment Force created by subdivision (a) of Section 7718.

(2) Creation, support, maintenance, and implementation of the state railroad accident prevention and immediate deployment plan developed pursuant to subdivision (b) of Section 7718.

(3) Creation, support, and maintenance of programs, data registries, equipment, and facilities to respond to, and contain, toxic releases resulting from surface transportation accidents. Expenditures pursuant to this paragraph may be for the purpose of any of the following:

(A) Acquisition and maintenance of specialized equipment and supplies.

(B) Support of specialized facilities.

(C) Creation and support of a state-level and local toxic emergency response teams to provide immediate onsite response capability in the event of large scale releases of toxic substances resulting from surface transportation accidents.

(4) Support for specialized training for state and local emergency response officials in techniques for prevention of, and response to, toxic releases resulting from surface transportation accidents.

(5) Support for research, data collection, and studies into technologies and techniques for prevention of, response to, and mitigation of, toxic releases resulting from surface transportation accidents.

(6) To provide economic assistance to persons, entities, and communities that suffer direct or indirect economic damages from a surface transportation accident.

7714.5. (a) In accordance with regulations adopted pursuant to

Section 7713, the secretary shall establish a fee schedule, which shall be paid by each surface transporter of hazardous materials in California in an amount sufficient to fund the appropriation from the prevention account and to maintain a prudent reserve of two months' operating costs, less amounts transferred from the response account pursuant to subdivision (d).

(b) The secretary shall, to the extent practicable, identify programs, equipment, and facilities applicable to specific surface transportation modes, and shall establish fees for each surface transportation mode to cover the costs of the programs, equipment, and facilities applicable to that specific surface transportation mode. Fees to cover the costs of programs, equipment, and facilities applicable to all or several surface transportation modes shall be paid in equal shares by surface transportation modes.

(c) The secretary may authorize payment of fees through contributions in kind of equipment, materials, or services.

(d) For the purposes of the fees authorized by this section, "surface transportation mode" shall not include pipelines subject to the fee assessed pursuant to Section 51019 of the Government Code or any natural gas pipeline.

(e) This section shall become inoperative on December 31, 1995.

7718. (a) The Railroad Accident Prevention and Immediate Deployment Force is hereby created in the California Environmental Protection Agency. The force shall be responsible for providing immediate onsite response capability in the event of large-scale releases of toxic materials resulting from surface transportation accidents and for implementing the state hazardous materials incident prevention and immediate deployment plan. This force shall act cooperatively and in concert with existing local emergency response units. The force shall consist of representatives of all of the following:

(1) Department of Fish and Game.
(2) California Environmental Protection Agency.
(3) State Air Resources Board.
(4) California Integrated Waste Management Board.
(5) California regional water quality control boards.
(6) Department of Toxic Substances Control.
(7) Department of Pesticide Regulation.
(8) Office of Environmental Health Hazard Assessment.
(9) State Department of Health Services.
(10) Department of the California Highway Patrol.
(11) Department of Food and Agriculture.
(12) Department of Forestry and Fire Protection.
(13) Department of Parks and Recreation.
(14) Department of Boating and Waterways.
(15) California Public Utilities Commission.
(16) Any other potentially affected state, local, or federal agency.
(17) Office of Emergency Services.

(b) The California Environmental Protection Agency shall

develop a state railroad accident prevention and immediate deployment plan in cooperation with the State Fire Marshal, affected businesses, and all of the entities listed in paragraphs (1) to (17), inclusive, of subdivision (a).

(c) The plan specified in subdivision (b) shall be a comprehensive set of policies and directions that every potentially affected state agency and business shall follow if there is a railroad accident to minimize the potential damage to the public health and safety, property, and environment that might result from accidents involving railroad activities in the state.

7720. (a) (1) When an appropriate prosecuting agency determines that any person has engaged in, is engaging in, or is about to engage in, any acts or practices which constitute, or which shall constitute, a violation of any provision of this chapter or of any rule, regulation, permit, covenant, standard, requirement, or order issued, promulgated, or executed pursuant to this chapter, the city attorney or district attorney of the jurisdiction in which these acts or practices have occurred, are occurring, or shall occur, or the Attorney General, may make application to the superior court or to the commission for an order enjoining these acts or practices or an order directing compliance with this chapter.

(2) A temporary restraining order, preliminary or permanent injunction, or other order may be issued under this subdivision upon a showing that any person has engaged in, is engaging in, or is about to engage in, the acts or practices set forth in paragraph (1).

(b) Notwithstanding any other provision of law, in any civil action brought pursuant to this chapter in which a temporary restraining order, or preliminary or permanent injunction is sought, it shall not be necessary for the moving party to allege or prove either of the factors set forth in paragraphs (1) and (2) at any stage of the proceeding. The temporary restraining order or preliminary or permanent injunction may issue without allegations or proof of either of the following factors:

(1) That irreparable damage shall occur should the relief sought not be granted.

(2) That the remedy at law is inadequate.

7721. Every civil action commenced pursuant to this article for civil or criminal penalties authorized by this article shall be brought by the city attorney, the district attorney, or the Attorney General in the name of the people of the State of California, and any actions relating to the same event, transaction, or occurrence may be joined or consolidated, or may be coordinated pursuant to Section 404 of the Code of Civil Procedure or Division II (commencing with Rule 1501) of Title Four of the California Rules of Court.

7722. Any civil action brought in the superior court pursuant to this article shall be brought in the county in which the spill, discharge, or violation occurred, the county in which the principal place of business of the defendant is located, or the county in which the defendant is doing business in this state.

7723. The civil and criminal penalties provided in this article are separate and in addition to, and do not supersede or limit, any other civil or criminal remedy.

7724. (a) Any person who commits any of the following acts, shall, upon conviction, be punished by imprisonment in the county jail for not more than one year or by imprisonment in the state prison for 16, 24, or 36 months:

(1) Except as provided by Section 7724.1, knowingly fails to follow the direction or order of the secretary or the commission arising from a rail accident or release of a hazardous or potentially hazardous commodity from a railcar.

(2) Knowingly causes, or aids or abets in, the discharge or spill of, a hazardous or potentially hazardous commodity from a railcar, unless the discharge is authorized by the United States, the state, or another agency with appropriate jurisdiction.

(3) Knowingly fails to comply with the regulations adopted pursuant to Section 7712, and that failure results in a rail accident or release of hazardous material or creates a significant risk of accident or release of hazardous material.

(b) The court shall also impose upon a person convicted of violating subdivision (a), a fine not to exceed five hundred thousand dollars ($500,000) for each violation. For purposes of this subdivision, each day or partial day that a violation occurs is a separate violation.

(c) The court shall also impose upon a person convicted of violating paragraph (1) of subdivision (a), a fine equal to twice the cost of abating, repairing, and responding to the cost associated with the illegal discharge of a hazardous or potentially hazardous commodity from a railcar as a result of a rail accident.

7724.1. (a) If a person reasonably, and in good faith, believes that the directions or orders given by the secretary or the commission would substantially endanger the public safety or the environment, the person may refuse to act in compliance with the orders or directions of the secretary or the commission. The person shall state, at the time of the refusal, the reasons why the person refuses to follow the orders or directions of the secretary or the commission. The person shall give the secretary or the commission written notice of the reasons for the refusal within 48 hours of refusing to follow the orders or directions of the secretary or the commission.

(b) In any civil or criminal proceeding commenced pursuant to Section 7724, the burden of proof shall be on the responsible party or potentially responsible party to demonstrate, by clear and convincing evidence, why the refusal to follow the orders or directions of the secretary or the commission was justified under the circumstances.

7724.5. (a) Any person who commits any of the acts set forth in paragraphs (1) to (3), inclusive, shall be liable for a civil penalty not to exceed one hundred thousand dollars ($100,000) for each violation of a separate provision or, for a continuing violation, for each day that violation occurs:

(1) Negligent failure to follow the direction or order of the secretary in connection with a rail accident or the release of a hazardous commodity from a railcar.

(2) Knowingly engaging in, or causing the discharge or spill of a hazardous commodity from a railcar or highway carrier, unless that discharge is authorized by the United States, by the state, or by another governmental agency with appropriate jurisdiction.

(3) Negligent failure to comply with any regulation adopted pursuant to Section 7712.

(b) Any person who commits any of the acts set forth in paragraphs (1) to (3), inclusive, shall be liable for a civil penalty not to exceed twenty-five thousand dollars ($25,000) for each violation of a separate provision or, for a continuing violation, for each day that violation occurs:

(1) Failure to follow the direction or order of the secretary in connection with a rail accident or the release of a hazardous commodity from a railcar.

(2) Engaging in, or causing the discharge or spill of a hazardous commodity from a railcar or highway carrier, unless that discharge is authorized by the United States, by the state, or by another governmental agency with appropriate jurisdiction.

(3) Failure to comply with any regulation adopted pursuant to Section 7712.

7725. Twenty-five percent of penalties and fines collected pursuant to any action brought under Sections 7724 and 7724.5 shall be paid to the governmental agency or office which prosecutes the action. The remainder of the penalties and fines collected pursuant to this article shall be deposited into the fund.

7726. (a) When the secretary or the commission determines that any person has engaged in, is engaged in, or threatens to engage in, any practice or act which constitutes a violation of this article, or any regulation or order issued, adopted, or executed pursuant to this article, the secretary or commission may issue an order requiring that person to cease and desist.

(b) Any cease and desist order issued by the secretary or commission may be subject to such terms and conditions as the secretary or commission may determine are necessary to ensure compliance with this article.

(c) Any cease and desist order issued by the secretary or commission shall become null and void 90 days after issuance.

(d) A cease and desist order issued by the secretary or commission shall be effective upon the issuance thereof, and copies shall be served immediately by certified mail upon the person or governmental agency being charged with the actual or threatened violation.

(e) The commission may authorize its executive director to exercise the commission's authority to issue cease and desist orders pursuant to this section.

7727. Notwithstanding any other provision of law, this chapter

shall not be construed to make a reference to the California Environmental Protection Agency for the purposes of compliance with Provision 2 of Item 3400-002-044 of Section 2.00 of the Budget Act of 1991.

SEC. 8. Nothing in this act changes or is intended to change existing law governing strict liability of transporters, owners, or consignors of hazardous or potentially hazardous materials.

SEC. 9. Section 3 of this act shall become operative only if Senate Bill 152 of the 1991–92 Regular Session of the Legislature is enacted and provides for fees to be paid by railroad corporations to pay costs of the commission's activities relating to railroad safety.

SEC. 10. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

SEC. 11. If any provision of this act or the application thereof to any person or circumstances is held invalid, that invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

CHAPTER 767

An act to amend Sections 421, 421.5, 422, 423, 424, and 99315.5 of, and to add Sections 765.6 and 765.9 to, the Public Utilities Code, relating to rail safety.

[Approved by Governor October 9, 1991 Filed with Secretary of State October 10, 1991]

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

SECTION 1. Section 421 of the Public Utilities Code is amended to read:

421. The commission shall annually determine a fee to be paid by every passenger stage corporation, charter-party carrier of passengers, pipeline corporation, for-hire vessel operator, common carrier vessel operator, railroad corporation, and commercial air operator and every other common carrier and related business subject to the jurisdiction of the commission, except as otherwise provided in Article 3 (commencing with Section 431) of this chapter and Chapter 6 (commencing with Section 5001) of Division 2.

The annual fee shall be established to produce a total amount equal to the amount established in the authorized commission budget for the same year, including adjustments appropriated by the Legislature and an appropriate reserve, to regulate common carriers and related businesses, less the amount to be paid from special accounts or funds pursuant to Section 403, reimbursements, federal funds, other revenues, and unencumbered funds from the preceding year.

Notwithstanding any other provision of law, the fees paid by railroad corporations shall be used for state-funded railroad investigation and enforcement activities of the commission, other than the rail safety activities funded by the Transportation Planning and Development Account pursuant to Section 99315.5. The railroad fees shall be set annually at a level which generates not less than the amount sufficient to fund activities pursuant to Section 765.5.

On January 1, 1992, the commission shall submit to the Legislature a detailed budget implementing this section for the 1992–93 fiscal year. The commission shall also submit to the Legislature by January 1, 1993, and on each January 1 thereafter, a detailed budget for expenditure of railroad corporation fees for the ensuing budget year. The budget for expenditure of railroad corporation fees shall include, at a minimum, the following line items:

(a) Expenditures for railroad-safety personnel directly involved in inspecting railroads and enforcing rail safety regulations.

(b) Expenditures for clerical and support staff directly associated with railroad-safety inspections.

(c) Expenditures for personnel related to railroad operations, but not directly involved in railroad-safety activities.

(d) Expenditures for the pro rata share of commission overhead costs attributed to the railroad-safety program.

The Department of Finance shall notify the Joint Legislative Budget Committee, pursuant to Section 28 of the Budget Act, prior to authorizing any change in the Budget Act appropriation for railroad corporation fees that are larger than one hundred thousand dollars ($100,000) or 10 percent of the amount budgeted, whichever is less.

SEC. 2. Section 421.5 of the Public Utilities Code is amended to read:

421.5. This article does not apply to any interstate or foreign highway carrier registered pursuant to the Interstate and Foreign Highway Carriers' Registration Act (Chapter 2 (commencing with Section 3901) of Division 2) who does not otherwise hold any operating authority from the commission to operate in intrastate commerce.

SEC. 3. Section 422 of the Public Utilities Code is amended to read:

422. The commission shall establish the fee pursuant to Section 421 with the approval of the Department of Finance and in accordance with all of the following:

(a) In its annual budget request, the commission shall specify, at a minimum, both of the following:

(1) The amount of its budget to be financed by the fee.

(2) The dollar allocation of the amount of its budget to be financed by the fee by each class of carrier and related business subject to the fee. Each class of carrier and related business subject to this article shall pay fees sufficient to support the commission's regulatory activities for the class from which the fee is collected and to establish an appropriate reserve.

(b) The commission may establish different and distinct methods of assessing fees for each class of carrier and related business, if the revenues collected are consistent with paragraph (2) of subdivision (a).

(c) Within each class of carrier and related business subject to the fee, the commission shall allocate, among the members of the class, the amount of the commission's budget to be financed by the fee based on the ratio that each member's gross intrastate revenues bears to the total gross intrastate revenues of the class, except for railroad corporations, whose fees shall be allocated within that class in accordance with subdivision (g).

(d) Any carrier or related business which is a member of more than one class of carrier or related business shall be subject to the fee for each class of which it is a member.

(e) For every carrier and related business having annual gross intrastate revenues of one hundred thousand dollars ($100,000) or less, or for every railroad corporation having annual gross intrastate revenues of ten million dollars ($10,000,000) or less, the commission shall annually establish uniform fees, which shall be not less than a minimum annual fee, to be paid by each carrier and related business and by each railroad corporation, if the revenues collected are consistent with paragraph (2) of subdivision (a). Every carrier and related business and railroad corporation paying fees pursuant to this subdivision shall show proof of eligibility at the time of payment in a form the commission may specify.

(f) The commission shall annually establish a uniform fee, which shall be not less than a minimum annual fee, to be paid by every commercial air operator and for-hire vessel operator, if the revenues collected are consistent with paragraph (2) of subdivision (a).

(g) The commission shall establish the initial fee amount to be paid by railroad corporations subject to this section, and the regulations for the assessment and collection of the fee, no later than January 31, 1992. The commission shall collect the initial fee from railroad corporations beginning on February 1, 1992, and shall disburse the amounts collected as directed in Section 309.7, as added by Assembly Bill 684 of the 1991–92 Regular Session, and Section 421.

(h) The commission shall establish regulations for allocating the proportionate share of the fee established pursuant to paragraph (2) of subdivision (a) to be paid by the rail corporations within that class. The regulations may utilize gross intrastate revenues; track mileage

within the state; terminals located within the state; loaded car miles traveled within the state; fuel consumption; or any other measure deemed by the commission to be appropriate in allocating the fee among railroad corporations. On or before January 15, 1992, railroad corporations as a group may submit a proposed plan of allocation to the commission, which the commission shall consider in establishing the regulations.

SEC. 4. Section 423 of the Public Utilities Code is amended to read:

423. Except as provided in Section 404, every carrier and related business subject to Section 421 shall make the payments of the required fee in accordance with the following schedule:

(a) Every carrier and related business with annual gross intrastate revenues of one hundred thousand dollars ($100,000) or less, railroad corporation, commercial air operator, and for-hire vessel operator shall make payment of the fee to the commission on an annual basis on or before January 15.

(b) Every other carrier and related business not subject to subdivision (a) shall make payment of the fee on a quarterly basis between the first and 15th days of July, October, January, and April.

(c) Each carrier and related business subject to subdivision (b) shall, at that time, prepare and transmit a report, in the form the commission may specify, showing the gross operating revenue of the carrier or related business for the calendar quarter covered by the report together with the fee established pursuant to Section 421. In the case of a railroad corporation, the report shall address the factors identified by the commission as the basis for allocation pursuant to subdivision (g) of Section 422.

(d) Any carrier or related business required to submit information and reports under this article may, in lieu thereof, submit copies of information or reports made to another governmental agency if all of the following requirements are met:

(1) The alternate information or reports contain all of the information required by the commission.

(2) The requirements to which the alternate information or reports are responsive are clearly identified.

(3) The information or reports are certified by the carrier or related business to be true and correct.

SEC. 5. Section 424 of the Public Utilities Code is amended to read:

424. As used in this article:

(a) "Class" means a group of carriers or related businesses as specified by the commission for purposes of establishing the fees pursuant to this article. The commission shall create separate classes for the following: passenger vehicle operators, pipeline corporations, vessel operators, railroad corporations, and commercial air operators.

(b) "Gross intrastate revenue" includes all compensation for the transportation or storage of property or the transportation of persons when both the origin and destination of the transportation or the

performance of the service is within this state, and shall not include compensation for the transportation of persons or property in interstate or foreign commerce or the transportation of vehicles by ferries. "Gross intrastate revenue," as determined pursuant to this article, shall apply only for purposes of determining the fees required by this chapter and shall not necessarily constitute gross operating revenue for any other purpose.

(c) "Fee" means that monetary amount determined in accordance with this article.

SEC. 6. Section 765.6 is added to the Public Utilities Code, to read:

765.6. The commission shall report to the Legislature on the compliance with the requirements of Section 765.5, as added by Assembly Bill 151 of the 1991–92 Regular Session on or before January 1, 1993, and annually thereafter. Additionally, the commission shall provide for an annual audit of the use of funds collected from railroads pursuant to Section 421. The annual report shall include a determination by the commission of the impact on competition, if any, of the regulatory fees assessed railroad corporations and motor carriers for the support of the commission's activities.

SEC. 7. Section 765.9 is added to the Public Utilities Code, to read:

765.9. Federal funds available to the commission for rail safety inspection and enforcement purposes shall be allocated to eligible passenger and freight rail activities on a proportionate basis.

SEC. 8. Section 99315.5 of the Public Utilities Code is amended to read:

99315.5. From the funds made available pursuant to Section 99312, an amount shall be appropriated for each of the following purposes:

(a) To the department for its planning activities not payable from the State Highway Account in the State Transportation Fund, its mass transportation responsibilities, and its assistance in regional transportation planning.

(b) To the director for allocation to the Institute of Transportation Studies of the University of California for training and research in public transportation systems engineering and management and coordination with other transportation modes.

(c) To the commission for its activities not payable from the State Highway Account.

(d) To the Public Utilities Commission for its passenger rail safety responsibilities specified in statute on commuter rail, intercity rail, and urban rail transit lines.

SEC. 9. This act shall become operative only if Assembly Bill 151 of the 1991–92 Regular Session is enacted.

SEC. 10. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction,

changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

SEC. 11. If any provision of this act or the application thereof to any person or circumstances is held invalid, that invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

CHAPTER 768

An act to amend Sections 7511, 7514, and 7554 of, and to add Section 7555 to, the Penal Code, and to repeal Section 7 of Chapter 1579 of the Statutes of 1988, relating to AIDS, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 9, 1991. Filed with Secretary of State October 10, 1991]

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

SECTION 1. Section 7 of Chapter 1579 of the Statutes of 1988 is repealed.

SEC. 2. Section 7511 of the Penal Code is amended to read:

7511. (a) The chief medical officer shall, regardless of whether a report filed pursuant to Section 7510 contains a request for HIV testing, decide whether or not to require HIV testing of the inmate or other person who is the subject of the report filed pursuant to Section 7510, within five calendar days of receipt of the report. If the chief medical officer decides to require HIV testing, he or she shall specify in his or her decision the circumstances, if any, under which followup testing will also be required.

(b) The chief medical officer shall order an HIV test only if he or she finds that, considering all of the facts and circumstances, there is a significant risk that HIV was transmitted. In making this decision, the chief medical officer shall take the following factors into consideration:

(1) Whether an exchange of bodily fluids occurred which could have resulted in a significant risk of AIDS infection, based on the latest written guidelines and standards established by the federal Centers for Disease Control and the State Department of Health Services.

(2) Whether the person exhibits medical conditions or clinical findings categorizing him or her as a possible AIDS victim.

(3) Whether the health of the institution staff or inmates may

have been endangered as to AIDS infection resulting from the reported incident.

(c) Prior to reaching a decision, the chief medical officer shall receive written or oral testimony from the law enforcement employee filing the report, from the subject of the report, and from witnesses to the incident, as he or she deems necessary for a complete investigation. The decision shall be in writing and shall state the reasons for the decision. A copy shall be provided by the chief medical officer to the law enforcement employee who filed the report and to the subject of the report, and where the subject is a minor, to the parents or guardian of the minor, unless the parent or guardian of the minor cannot be located.

SEC. 3. Section 7514 of the Penal Code is amended to read:

7514. (a) It shall be the chief medical officer's responsibility to see that personal counseling is provided to a law enforcement employee filing a report pursuant to Section 7510, an inmate filing a request pursuant to Section 7512, and any potential test subject, at the time the initial report or request for tests is made, at the time when tests are ordered, and at the time when test results are provided to the employee, inmate, or test subject.

The chief medical officer may provide additional counseling to any of these individuals, upon his or her request, or whenever the chief medical officer deems advisable, and may arrange for the counseling to be provided in other jurisdictions. The chief medical officer shall encourage the subject of the report or request, the law enforcement employee who filed the report, the person who filed the request pursuant to Section 7512, or in the case of a minor, the minor on whose behalf the request was filed, to undergo voluntary HIV testing if the chief medical officer deems it medically advisable. All testing required by this title or any voluntary testing resulting from the provisions of this title, shall be at the expense of the appropriate correctional institution.

(b) On or before January 15, 1993, 1994, and 1995, the Department of Corrections, the Department of the California Youth Authority, and each law enforcement agency in which a request for a test has been filed during the previous calendar year, shall report data to the Joint Legislative Committee on Prison Construction and Operation on all requests made during that period, plus specifics of the disposition of each request, the counseling provided, and its extent for each case. This data shall be provided by the committee to the Legislative Analyst, who shall compile a report to the Legislature on or before January 30, 1995, on whether the program is meeting the objectives of this title. The report shall include a recommendation on whether the program should be continued, terminated, or changed.

The Legislative Analyst shall consult with the Office of Aids, within the State Department of Health Services, in preparing its evaluation.

Names of persons seeking tests or the subject of a request for a test shall not be included in any document made public as a result of this section.

Notwithstanding the repeal of this section in accordance with Section 7555, the duties imposed by this subdivision shall continue in effect until they have been complied with.

SEC. 4. Section 7554 of the Penal Code is amended to read:

7554. (a) The purpose of this section is to establish the extent of peace officers' occupational exposure for HIV infection.

(b) The correctional, custodial, or law enforcement agency to which this title applies or the chief medical officer of a correctional, custodial, or law enforcement agency to which this title applies shall report each reportable incident involving a law enforcement employee under this title together with the disposition of each case to the State Department of Health Services.

The report shall include all of the following: the assignment of the law enforcement employee; the type of incident; the type of injury sustained; the treatment rendered to the injured employee; citations to criminal laws which were allegedly violated; and the identity of the employing agency. Under no circumstances shall the identity of the law enforcement employee or the source person be transmitted by the local law enforcement agency or the chief medical officer of the local agency to the State Department of Health Services.

(c) The State Department of Health Services shall release the data, upon written request, to any law enforcement agency or to any bona fide, nonprofit law enforcement research body primarily concerned with peace officer health issues, provided that the identity of any law enforcement employee, any person who is the subject of a report, or any tested person under this title shall remain anonymous. Any unauthorized release of information leading to the identity of a person whose identity is protected under this section shall constitute a misdemeanor.

(d) The State Department of Health Services shall report to the Legislature on or before July 1 of each year regarding the number, type, and disposition of each report described in subdivision (b), with an evaluation of that data, provided that the reported information does not disclose the identity of any individual law enforcement employee.

(e) For purposes of this section, a "reportable incident" means an incident described in subdivision (a) of Section 7510. A "source person" means a person whose bodily fluids are believed to have contacted the bodily fluids of a law enforcement employee as described in subdivision (a) of Section 7510.

SEC. 5. Section 7555 is added to the Penal Code, to read:

7555. This title shall remain operative only until July 1, 1994, and as of January 1, 1995, is repealed, unless a later enacted statute, which is enacted before January 1, 1995, deletes or extends the dates upon which this title becomes inoperative and is repealed.

Notwithstanding this section, whenever, prior to July 1, 1994, a law enforcement agency employee has filed a report pursuant to Section 7510, or a request for a human immunodeficiency virus (HIV) test has been filed pursuant to Section 7512, or any other procedure for

requiring a test has been commenced pursuant to this title, the proceedings shall be permitted to continue on or after July 1, 1994, until they have been concluded.

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

However, notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains other costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide costs of the claim for reimbursement does not exceed one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund.

Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

SEC. 7. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to continue the operation of provisions enacted to reduce the spread of AIDS in correctional institutions, which would otherwise be inoperative after July 1, 1991, it is necessary that this act go into immediate effect.

CHAPTER 769

An act to add Chapter 5.5 (commencing with Section 42300) to Part 3 of Division 30 of the Public Resources Code, relating to packaging.

[Approved by Governor October 9, 1991 Filed with Secretary of State October 10, 1991.]

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

SECTION 1. Chapter 5.5 (commencing with Section 42300) is added to Part 3 of Division 30 of the Public Resources Code, to read:

CHAPTER 5.5. PLASTIC PACKAGING CONTAINERS

Article 1. Legislative Findings and Definitions

42300. The Legislature finds and declares all of the following:

(a) Recycling rigid plastic packaging containers saves landfill space, reduces energy consumption, and preserves natural resources.

(b) The California Integrated Waste Management Act of 1989 requires cities and counties to reduce the amount of waste disposed in landfills by 50 percent by the end of the decade through source reduction, recycling, and composting.

(c) Rigid plastic packaging containers represent a significant component of the solid waste generated in the state.

(d) In order for recycling in the state to be successful, it is critical that stable, in-state markets be developed for material separately collected from the waste stream and processed for recycling.

(e) As of the effective date of this chapter, curbside collection of recyclables is available to nearly 20 percent of the state's residents. In order to expand the variety of materials collected in these programs, including all rigid plastic packaging containers, it is essential that stable markets exist for the plastic materials collected.

(f) The state has required several types of products to use increasing levels of postconsumer recycled material in their manufacture, including newsprint, glass containers, and plastic trash bags.

(g) Some of the nation's largest consumer product manufacturers have announced plans to require, or are currently requiring, their plastic packaging suppliers to provide them with containers comprised of increasing levels of postconsumer recycled materials, demonstrating that the technology is already available to use recycled material to make new plastic packaging containers. However, many businesses continue to purchase packaging materials made from 100 percent virgin plastic and to sell them in the state.

(h) It is, therefore, the intent of the Legislature to spur markets for plastic materials collected for recycling by requiring manufacturers to utilize increasing amounts of postconsumer recycled material in their rigid plastic packaging containers and to achieve high recycling rates for these plastic packaging containers.

42301. For purposes of this chapter, the following definitions apply:

(a) "Refillable package" means a rigid plastic packaging container which the board determines is routinely returned to and refilled by the product manufacturer at least five times with the original product contained by the package.

(b) "Reusable package" means a rigid plastic packaging container which the board determines is routinely reused by consumers at least five times to store the original product contained by the package.

(c) "Manufacturer" means the producer or generator of a product which is sold or offered for sale in the state and which is stored inside of a rigid plastic packaging container.

(d) "Rigid plastic packaging container" means any plastic package having a relatively inflexible finite shape or form, with a minimum capacity of eight fluid ounces or its equivalent volume and

a maximum capacity of five fluid gallons or its equivalent volume, that is capable of maintaining its shape while holding other products, including, but not limited to, bottles, cartons, and other receptacles, for sale or distribution in the state.

(e) "Postconsumer material" means a material that would otherwise be destined for solid waste disposal, having completed its intended end-use and product lifecycle. Postconsumer material does not include materials and byproducts generated from, and commonly reused within, an original manufacturing and fabrication process.

(f) "Recycled" means a product or material which has been reused in the production of another product and has been diverted from disposal in a landfill.

(g) "Recycling rate" means one of the following:

(1) The proportion, as measured by weight, volume, or number, that all rigid plastic packaging containers, notwithstanding the size limitations set forth in subdivision (d), in the aggregate, sold, or offered for sale in the state are being recycled in a given calendar year.

(2) The proportion, as measured by weight, volume, or number, that a particular type of plastic packaging container sold or offered for sale in the state, such as a milk jug, soft drink container, or detergent bottle, is being recycled in a given calendar year if the particular container type is being recycled at a rate that is at least 20 percent greater than the recycling rate required in subdivision (b) of Section 42310.

(3) The proportion, as measured by weight, volume, or number, that a product-associated rigid plastic packaging container sold or offered for sale in the state is being recycled in a given calendar year if the particular container type is being recycled at a rate that is at least 20 percent greater than the recycling rate required in subdivision (b) of Section 42310.

(4) The proportion, as measured by weight, volume, or number, that a PETE rigid plastic packaging container sold or offered for sale in the state is being recycled in a given calendar year.

(h) (1) "Source reduced container" means a rigid plastic packaging container for which the package weight or package volume per unit or use of product has been reduced by 10 percent when compared with whichever of the following is applicable:

(A) For containers manufactured in the five-year period beginning January 1, 1990, and ending December 31, 1994, the packaging used for the same product by the same manufacturer on and after January 1, 1990.

(B) For containers manufactured during each subsequent five-year period, commencing January 1, 1995, the packaging used for the same product by the same manufacturer on January 1 of the first year of that five-year period.

(2) A rigid plastic packaging container is not a source reduced container for the purposes of this chapter if the packaging reduction

was achieved by any of the following:

(A) Substituting a different material type for a material which previously constituted the principal material of the container.

(B) Increasing a container's weight or volume per unit of product after January 1, 1991.

(C) Packaging changes that adversely affect the potential for the plastic packaging container to be recycled or to be made of postconsumer material.

(i) "Product-associated rigid plastic packaging container" means a brand-specific, rigid plastic packaging line which may have one or more sizes, shapes, or designs and which is used in conjunction with a particular generic product line.

(j) "PETE" means polyethylene terephthalate as specified in subdivision (a) of Section 18015.

Article 2. Manufacturing

42310. Except as otherwise provided in this chapter, on and after January 1, 1995, every rigid plastic packaging container sold or offered for sale in the state shall on average meet one of the following criteria:

(a) Be made from 25 percent postconsumer material.

(b) Have a recycling rate of 25 percent if its primary material is not PETE, based on annual reports published by the board on and after January 1, 1993.

(c) Have a recycling rate of 55 percent if its primary material is PETE, based on annual reports published by the board on and after January 1, 1993.

(d) Be reusable or refillable.

(e) Be a source reduced container.

Article 3. Penalties, Regulations, and Report

42320. Any entity required to make a certification pursuant to this chapter may be audited by the board.

42321. If any entity provides the board with a false or misleading certificate pursuant to this chapter, the board, within 30 days of making this determination, shall refer the provider of the false or misleading certificate to the Attorney General for prosecution for fraud.

42322. (a) Any violation of this chapter is a public offense punishable by a fine of not more than one hundred thousand dollars ($100,000).

(b) In addition to the penalty specified under subdivision (a), any violation of this chapter may be subject to a civil penalty assessed by the board of not more than fifty thousand dollars ($50,000) for each violation, pursuant to a notice and hearing procedure which conforms with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

(c) The total annual fines or penalties assessed upon a violator of this chapter shall not exceed one hundred thousand dollars ($100,000).

(d) On and after July 1, 1996, the board shall annually publish a list setting forth any fines or penalties that have been levied against a violator of this chapter in the preceding calendar year for failure to comply with the requirements of this chapter.

(e) The board shall deposit all penalties or fines paid pursuant to this section into the Rigid Container Account, which is hereby created in the Integrated Waste Management Fund in the State Treasury. The moneys deposited in the Rigid Container Account shall be used, upon appropriation by the Legislature, to assist local governmental agencies to develop and implement collection and processing systems for the recycling of materials covered under this chapter.

42323. Proprietary information included in part of a report or certificate submitted to the board pursuant to this chapter shall not be made available to the general public.

42324. On or before March 31, 1993, as part of the report required to be prepared pursuant to Section 40507, the board shall submit to the Legislature and the Governor a study that includes the following:

(a) Plans for implementing this chapter, including methods for certifying compliance with this chapter.

(b) Identification of the method by which the board shall fund its role in the implementation of this chapter and recommendations for alternative funding methods.

(c) Recommendations for modifying this chapter, including both of the following:

(1) Goals of minimum recycled content, which will achieve additional recycling, reuse, and source reduction of, and increased postconsumer material uses in, rigid plastic packaging containers beyond 1995.

(2) Suggested changes, if appropriate, to this chapter's recycling rate approach for rigid plastic packaging containers which come in direct contact with food or other materials which may require special health precautions.

42325. On or before July 1, 1994, the board shall adopt regulations to implement this chapter. These regulations shall include, but shall not be limited to, all of the following:

(a) Procedures for certifying compliance with Article 2 (commencing with Section 42310), including a requirement that product manufacturers include in their specifications for rigid plastic packaging containers a requirement that the packaging manufacturer certify that the rigid plastic packaging containers comply with this chapter.

(b) Procedures for considering and granting waivers pursuant to Article 4 (commencing with Section 42330).

42326. In preparing the report required by Section 42324 and in developing the regulations required by Section 42325, the board shall

consult with representatives of the manufacturers affected by this chapter, with representatives of environmental organizations, and other interested parties.

42327. The board may expend funds from the Integrated Waste Management Account to implement this chapter, upon appropriation by the Legislature.

Article 4. Waivers

42330. (a) The board shall grant a waiver from the postconsumer material content requirement of subdivision (a) of Section 42310, but not from any other requirement of Section 42310, if the board finds one or more the following:

(1) The rigid plastic packaging containers cannot meet the postconsumer material requirements of subdivision (a) of Section 42310 and remain in compliance with applicable provisions of regulations adopted by the Food and Drug Administration or other state or federal laws or regulations.

(2) It is technologically infeasible to use rigid plastic packaging containers which achieve the postconsumer material requirement of subdivision (a) of Section 42310.

(b) The board shall grant a waiver from all of the requirements of Section 42310 if the board finds either of the following:

(1) Less than 60 percent of the single-family homes in the state on and after January 1, 1994, have curbside collection programs which include beverage container recycling.

(2) At least 50 percent, by number, of a manufacturer's rigid plastic packaging containers sold or offered for sale in the state in the current calendar year achieve the postconsumer material requirements of subdivision (a) of Section 42310 and all of the manufacturer's rigid plastic packaging containers will comply with the requirements of Section 42310 on or before January 1, 1996.

Article 5. Exemptions

42340. The following rigid plastic packaging containers are exempt from this chapter:

(a) Rigid plastic packaging containers produced in or out of the state which are destined for shipment to other destinations outside the state and which remain with the products upon that shipment.

(b) Rigid plastic packaging containers which contain drugs, medical devices, medical food, or infant formula as defined by the Federal Food, Drug and Cosmetic Act (21 U.S.C. Sec. 301 and following).

(c) Rigid plastic packaging containers which contain toxic or hazardous products regulated by the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. Sec. 136 and following).

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the

only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 770

An act to add Sections 43013.5 to the Health and Safety Code, and to amend Sections 8951, 8956, 8957, 9021, 9151, and 9351 of, to add Section 8616, 8617, 8618, and 8751.6 to, to amend the heading of Chapter 3.5 (commencing with Section 8732) of Part 3 of Division 2 of, to add Article 1.6 (commencing with Section 6480.10) to Chapter 5 of Part 1 of Division 2 of, to add Article 3 (commencing with Section 8721) to Chapter 3 of Part 3 of Division 2 of, to add an article heading immediately preceding Section 8732 of, and to add Article 2 (commencing with Section 8736) to Chapter 3.5 of Part 3 of Division 2 of, the Revenue and Taxation Code, relating to fuel, and making an appropriation therefor.

[Approved by Governor October 9, 1991 Filed with Secretary of State October 10, 1991.]

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

SECTION 1. Section 43013.5 is added to the Health and Safety Code, to read:

43013.5. (a) For purposes of implementing and enforcing Sections 43020 and 43021, the State Air Resources Board shall purchase and install a wavelength dispersive XRF spectrometer with the capability to analyze gasoline and diesel fuels and other petroleum products for sulfur content according to ASTM procedures specified by regulation.

(b) On or before May 1, 1992, the State Air Resources Board shall report to the Legislature on the nature, types, and extent of unfinished fuels and fuel blending components sold or blended at locations other than refineries. The report shall include recommendations concerning the need for appropriate legislation.

SEC. 2. Article 1.6 (commencing with Section 6480.10) is added to Chapter 5 of Part 1 of Division 2 of the Revenue and Taxation Code, to read:

Article 1.6. Prepayment of Sales Tax on Fuel

6480.10. (a) For purposes of this article, the terms "motor vehicle," "fuel," "person," and "in this state" are defined pursuant to Part 3 (commencing with Section 8601), except as provided in subdivision (b).

(b) For purposes of this article, "fuel" does not include liquefied petroleum gas, compressed natural gas, liquid natural gas, and methanol and ethanol containing not more than 15 percent gasoline or diesel fuels.

(c) For purposes of this article, "fuel" includes "aircraft jet fuel" as that term is defined by Section 7372.

6480.11. "Importer" means any person who imports fuel for sale in this state.

6480.12. "Producer" means any person who produces fuel in this state.

6480.13. "Produce" means to convert liquid compounds that are not fuel into fuel.

6480.14. "Jobber" includes every person, other than a producer or importer, dealing in fuel. "Jobber" does not include anyone dealing in fuel only as an operator of a service station.

6480.15. "Sale" means any transfer of title or possession, exchange, or barter, conditional or otherwise, in any manner or by any means whatsoever, of fuel for a consideration.

6480.16. (a) After service of written notification by the board, the producer or importer shall collect prepayment of retail sales tax from the person to whom fuel is first sold in this state. The prepayment required to be collected by the producer constitutes a debt owed by the producer or importer to the state until paid to the board, until satisfactory proof has been submitted to prove that the retailer of the fuel has paid the retail sales tax to the board, or until a producer or importer who has consumed the fuel has paid the use tax to the board. Each producer or importer shall report and pay the prepayment amounts to the board on a form prescribed by the board in the period in which the fuel is sold. On each subsequent sale of that fuel, each seller, other than the retailer, shall collect from his or her purchaser a prepayment computed using the rate applicable at the time of sale. Each seller shall provide his or her purchaser with a receipt or invoice for the collection of the prepayment amounts that shall be separately stated thereon.

(b) After service of written notification by the board, the jobber shall collect prepayment of the retail sales tax from the person to whom the fuel is sold. The prepayment required to be collected by the jobber constitutes a debt owed by the jobber to the state until paid to the board, or until satisfactory proof has been submitted to prove that the retailer of the fuel has paid the tax to the board. Each jobber shall provide his or her purchaser with a receipt or invoice for the collection of the prepayment amounts, and the amounts shall be separately stated thereon.

Each jobber shall report and pay the prepayment amounts to the board, on a form prescribed by the board, in the period in which the fuel is sold. The amount of prepayment paid by the jobber to his or her vendor shall constitute a credit against the amount of prepayment required to be collected and remitted by the jobber to the board.

(c) A producer, importer, or jobber who pays the prepayment and issues a resale certificate to the seller, but subsequently consumes the fuel, shall be entitled to a credit against his or her sales and use taxes due and payable for the period in which the prepayment was made, provided that he or she reports and pays the use tax to the board on the consumption of that fuel.

(d) The amount of a prepayment paid by the retailer or a producer, importer, or jobber who has consumed the fuel, to the seller from whom he or she acquired the fuel shall constitute a credit against his or her sales and use taxes due and payable for the period in which the sales was made. Failure of the producer, importer, or jobber to report prepayments or the producer's, importer's, or jobber's failure to comply with any other duty under this article shall not constitute grounds for denial of the credit to the retailer, producer, importer, or jobber, either on a temporary or permanent basis or otherwise. The retailer, producer, importer, or jobber shall be entitled to the credit to the extent of the amount prepaid to his or her supplier as evidenced by purchase documents, invoices, or receipts stating separately the amount of tax prepayment.

(e) The rate of the prepayment required to be collected shall be equal to the prepayment rate established pursuant to subdivision (f) of Section 6480.1, less one and one-half cents ($0.015) per gallon. Immediately upon making its determination and setting of the rate, the board shall each year, no later than January 1, notify by mail every producer, importer, jobber, and retailer of fuel. In the event the price of fuel decreases or increases, and the established rate results in prepayments that consistently exceed established rate results or are significantly lower than the retailers' sales tax liability, the board may readjust the rate.

(f) Notwithstanding any other provision of this section, sales or exchanges of fuel between those persons exempt from license taxes pursuant to paragraph (3) of subdivision (a) of Section 7401 shall be exempt from prepayment of sales tax.

6480.17. (a) If the board determines that it is necessary for the efficient administration of this part, the board may require a producer, importer, or jobber to provide the board with a list of purchasers to whom the fuel was transferred.

(b) In addition to any other reports required under this article, the board may, by rule and otherwise, require additional, other, or supplemental reports, in any form that the board may require, from producers, importers, or jobbers with respect to their sales of fuel.

(c) Any producer, importer, or jobber who fails to comply with this section is guilty of a misdemeanor punishable as provided in

Section 7153.

6480.18. The producer, importer, or jobber shall file his or her prepayment form, together with a remittance of the prepayment amounts required to be collected pursuant to Section 6480.16 payable to the State Board of Equalization, on or before the 25th day of the calendar month following the monthly period to which the prepayment form, or each prepayment relates.

6480.19. (a) Any producer, importer, or jobber who fails to make a timely remittance to the board of the prepayment required pursuant to Sections 6480.16 and 6480.18 shall also pay a penalty of 10 percent of the amount of the prepayment due but not paid, plus interest at the modified adjusted rate per month, or fraction thereof, established pursuant to Section 6591.5, from the date the prepayment became due and payable to the state until the date of payment.

(b) The penalty amount specified in subdivision (a) shall be 25 percent if the producer, importer, or jobber knowingly or intentionally fails to make a timely remittance.

6480.20. Notification by the board pursuant to Section 6480.16 may be served personally or by mail upon each producer, importer, or jobber in the manner prescribed in Section 6486 for service of notice of a deficiency determination, or by mailing with blank tax return forms.

6480.21. (a) The following persons who have paid prepayment amounts, either directly to the board or to the person from whom it was purchased, shall be refunded those amounts:

(1) Any person who exports the fuel for subsequent sale outside this state.

(2) Any person who sells the fuel that is exempt from the sales or use tax pursuant to Sections 6352, 6357, 6381, and 6396.

(3) Any person who has lost the fuel through fire, flood, theft, leakage, evaporation, shrinkage, spillage, or accident, prior to any retail sale.

(4) Any person who is unable to collect the prepayment from the purchaser insofar as the sales of the fuel are represented by accounts which have been found to be worthless and charged off for income tax purposes. If partial payments have been made, the payments shall be prorated between amounts due for fuel and amounts due for the related prepayment. If any of those accounts are thereafter in whole or in part collected by the seller, the gallons of fuel represented by the amounts collected shall be included in the first return filed after that collection and the amount of the prepayment thereon paid with the return. As a condition for eligibility for refund, the board may require the seller to submit periodical reports listing accounts delinquent for a 90-day period or more.

(b) In lieu of a refund, the board may authorize a credit to be taken by the person to whom the refund is due upon his or her prepayment form or sales and use tax return.

6480.22. (a) The board may require any producer, importer, or jobber subject to this article to place with the board any security that

the board determines is necessary to ensure compliance with this article. The amount of the security shall be fixed by the board but shall not be greater than three times the estimated average liability of producers, importers, or jobbers required to file returns for monthly periods, determined in any manner that the board deems proper, or five hundred thousand dollars ($500,000), whichever amount is less. These amounts apply regardless of the type of security placed with the board. The amount of the security may be increased or decreased by the board subject to the maximum amounts.

(b) The board may sell the security at public auction if it becomes necessary to so do in order to recover any tax or any amount required to be collected or penalty due. Notice of the sale may be served upon the person who placed the security personally or by mail. If service is by mail, service shall be made in the manner prescribed for service of a notice of a deficiency determination and shall be addressed to the person at his or her address as it appears in the record of the board. However, security in the form of a bearer bond issued by the United States or the State of California that has a prevailing market price may be sold by the board at a private sale at a price not lower than the prevailing market price thereof. Upon any sale, any surplus in excess of the amounts due shall be returned to the producer, importer, or jobber who placed the security.

6480.23. (a) Any retailer required to make prepayment to the seller from whom he or she acquired the fuel shall be allowed to credit against the tax liability due for the monthly or quarterly period preceding the effective date of this article, an amount of tax equal to the tax liability imposed at the rate established pursuant to subdivision (e) of Section 6480.16 for fuel sold by that retailer during the month in which the retailer sold the highest number of gallons of fuel during the 12-month period immediately preceding the effective date of this article. However, nothing in this section shall entitle the retailer to any refund to which he or she would not otherwise be entitled to receive.

(b) Any excess of credit over the amount of tax liability due for that monthly or quarterly period shall be taken as a credit against the tax liability due for the following monthly or quarterly period.

(c) The amount of credit allowed by this section shall be remitted to the board, without interest, on a return in the form as the board may prescribe at a rate of 25 percent per quarter on or before the end of the month following each of the four calendar quarters following the quarter or month in which the credit was allowed. Any balance is due and payable on the return required to be filed for the period in which the taxpayer ceases to be engaged in business.

Any retailer, who fails to make a timely remittance to the board of the amount of credit required to be paid under this section, shall also pay a penalty of 10 percent of the amount of the credit due but not paid, plus interest at the modified adjusted rate per month, or fraction thereof, established pursuant to Section 6591.5, from the date the prepayment became due and payable to the state until the date

of payment.

SEC. 3. Section 8616 is added to the Revenue and Taxation Code, to read:

8616. "Wholesaler" includes every person who sells fuel in this state for resale to a retailer, or to a person who is not a retailer and subsequently uses the fuel.

SEC. 5. Section 8617 is added to the Revenue and Taxation Code, to read:

8617. "Retailer" includes every person who makes any retail sale.

SEC. 6. Section 8618 is added to the Revenue and Taxation Code, to read:

8618. A "retail sale" or "sale at retail" means a sale for any purposes other than resale in the regular course of business.

SEC. 7. Article 3 (commencing with Section 8721) is added to Chapter 3 of Part 3 of Division 2 of the Revenue and Taxation Code, to read:

8721. Every person desiring to become a wholesaler shall first secure a wholesaler use fuel tax permit.

8722. An application for a permit shall be made to the board upon forms prescribed by the board.

8723. On receipt of an application, the board shall issue to the applicant a wholesaler use fuel tax permit authorizing him or her to become a wholesaler of fuel taxable under this part. The permit is valid until canceled, suspended, or revoked.

8724. Whenever any wholesaler fails to comply with any provision of this part or any rule or regulation of the board prescribed and adopted under this part, relating to fuel wholesalers, the board upon hearing, after giving the wholesaler at least 10 days' notice in writing specifying the time and place of hearing and requiring the wholesaler to show cause why his or her permit should not be revoked, may revoke or suspend the permit held by the wholesaler. The board shall give to the person written notice of the suspension or revocation of his or her permit. The notices may be served personally or by mail in the manner prescribed for service of notice of a deficiency determination. The board shall not issue a new permit to a wholesaler whose permit has been revoked or reinstate the permit of a wholesaler whose permit has been suspended or revoked unless it is satisfied that he or she will comply with the provisions of this part and the rules and regulations of the board, and the wholesaler pays to the board a fee of fifty dollars ($50) for the reinstatement or issuance of a permit. The fee shall not be subject to refund except as provided in Section 9151.

8725. It is unlawful for any person to operate as a wholesaler of fuel in this state without a permit or after a permit has been suspended or revoked.

8726. (a) A permit shall be held only by persons actively engaging in or conducting a business as a wholesaler of fuel taxable under this part. Any person not so engaged shall forthwith surrender his or her permit to the board for cancellation. The board may revoke

the permit of a person found to be not actively engaged in or conducting a business as a wholesaler of fuel taxable under this part.

(b) If the permitholder who transfers a business does not notify the board of the transfer, or deliver the permit to the board for cancellation, and the transferee, with the permitholder's actual or constructive knowledge, uses the permit in any way, the transferor shall be liable for taxes under this part, interest computed as specified in Section 8777, and those penalties imposed pursuant to subdivision (c).

(c) The transferor shall be liable for penalties incurred by the transferee under Sections 8779, 8876, and 9352, but shall not be liable for penalties incurred by the transferee under Sections 8780 and 9353. However, the board may, at its discretion, relieve the transferor from liability for penalties incurred by the transferee.

SEC. 8. The heading of Chapter 3.5 (commencing with Section 8732) of Part 3 of Division 2 of the Revenue and Taxation Code is amended to read:

CHAPTER 3.5. COLLECTION OF TAX BY VENDOR AND WHOLESALER

SEC. 9. An article heading is added to the Revenue and Taxation Code immediately preceding Section 8732, to read:

Article 1. Collection of Tax by Vendor

SEC. 10. Article 2 (commencing with Section 8736) is added to Chapter 3.5 of Part 3 of Division 2 of the Revenue and Taxation Code, to read:

Article 2. Collection of Tax by Wholesaler

8736. A wholesaler of fuel, the use of which is taxable under this part, who sells and delivers the fuel to a retailer, or to a person who is not a retailer and subsequently uses the fuel, shall, at the time of sale, collect the tax from the retailer or user and give to the retailer or user a receipt therefor in the manner and form prescribed by the board.

8737. A wholesaler is relieved from liability to collect use fuel tax insofar as the sales of the fuel are represented by accounts which have been found worthless and charged off for income tax purposes. If the wholesaler has previously paid the amount of the tax, he or she may, under the rules and regulations prescribed by the board, take a credit in that amount. If those accounts are thereafter in whole or in part collected by the wholesaler, the gallons of fuel represented by the amounts collected shall be included in the first return filed after such collection and the amount of the tax thereon paid with the return. The board may, at its option, require the seller to submit periodical reports listing accounts delinquent for a 90-day period or

over.

8738. The tax required to be collected by the wholesaler constitutes a debt owed by the wholesaler to this state.

8739. The board may require wholesalers to submit at the times as it shall designate copies of the receipts given pursuant to Section 8736.

8740. A wholesaler shall not collect the use fuel tax imposed pursuant to this part on fuel if the person purchasing the fuel issues a certificate to the effect that the fuel is to be used for the exempt purposes specified in Section 8652, 8653, 8653.1, 8654, or 8655. The certificate shall be in the form prescribed by the board.

8741. (a) Any person who gives an exemption certificate for fuel which he or she knows at the time of purchase is not to be used in an exempt manner by him or her for the purpose of evading payment to the wholesaler of the amount of the tax applicable to the transactions, is guilty of a misdemeanor and is punishable as such.

(b) Any person who gives an exemption certificate for fuel which he or she knows at the time of purchase is not to be used in an exempt manner by him or her is liable to the state for the amount of tax that would be due if he or she had not given the exemption certificate. In addition to the tax, the person shall be liable to the state for a penalty of 10 percent of the tax or five hundred dollars ($500) whichever is greater, for each purchase made for personal gain or to evade the payment of taxes.

(c) Any wholesaler who accepts an exemption certificate for fuel that he or she knows at the time of purchase is not to be used in an exempt manner by the purchaser shall be liable to the state for a penalty of 10 percent of the tax or five hundred dollars ($500) whichever is greater, for each sale made for personal gain or to evade the payment of taxes.

8742. Chapters 4 (commencing with Section 8751) to 9 (commencing with Section 9351), inclusive, of this part shall apply to any wholesaler in the same manner as the provisions apply to any user.

SEC. 11. Section 8751.6 is added to the Revenue and Taxation Code, to read:

8751.6. If any vendor, retailer, or user has paid the tax to a wholesaler who is the holder of a valid wholesaler's permit issued under this part, he or she shall be allowed a credit against the amount of tax due under Section 8751 with respect to that fuel on which the tax was paid to the wholesaler.

SEC. 12. Section 8951 of the Revenue and Taxation Code is amended to read:

8951. The board, whenever it deems it necessary to ensure compliance with this part or any rule or regulation adopted under this part, may require any user, vendor, or wholesaler to deposit with it such security as it may determine. Any security in the form of cash, government bonds, or insured deposits in banks and savings and loan institutions shall be held by the board in trust to be used solely in the

manner provided for by this section and Section 8956. The board may sell the security at public sale if it becomes necessary so to do in order to recover any amount due under this part. Notice of the sale may be served upon the person who deposited the security personally or by mail in the manner prescribed for service of notice of a deficiency determination. Security in the form of a bearer bond issued by the United States or the State of California which has a prevailing market price may, however, be sold by the board at private sale at a price not lower than the prevailing market price thereof. Upon any sale, any surplus above the amount due shall be returned to the person who deposited the security.

SEC. 13. Section 8956 of the Revenue and Taxation Code is amended to read:

8956. If, at the time a person ceases to be a user, vendor, or wholesaler under this part, the board holds security pursuant to Section 8951 in the form of cash, government bonds, or insured deposits in banks or savings and loan institutions, such security when applied to the account of the taxpayer shall be deemed to be a payment on account of any liability of the taxpayer to the board on the date the person ceases to be a user, vendor, or wholesaler under this part.

SEC. 13.5. Section 8957 of the Revenue and Taxation Code is amended to read:

8957. (a) Subject to the limitations in subdivisions (b) and (c), the board may by notice of levy, served personally or by first-class mail, require all persons having in their possession, or under their control, any credits or other personal property belonging to a user, vendor, or other person liable for any amount under this part to withhold from those credits or other personal property the amount of any tax, interest, or penalties due from that user, vendor, wholesaler, or other person, or the amount of any liability incurred by them under this part, and to transmit the amount withheld to the board at such times as it may designate.

(b) The person served shall continue to withhold pursuant to the Notice of Levy until the amount specified in the notice, including accrued interest, has been paid in full, until the notice is withdrawn, or until one year from the date the notice is received, whichever occurs first.

(c) The amount required to be withheld is the lesser of the following:

(1) The amount due stated on the notice.

(2) The amount of each payment due or becoming due to the user, vendor, wholesaler, or other person liable during the period of the levy.

(d) For the purposes of this section, the term "payments" does not include earnings as that term is defined in subdivision (a) of Section 706.011 of the Code of Civil Procedure or funds in a deposit account as defined in Section 9105 of the Commercial Code. The term "payments" does include any of the following:

(1) Payments due for services of independent contractors, dividends, rents, royalties, residuals, patent rights, mineral or other natural rights.

(2) Payments or credits due or becoming due periodically as a result of an enforceable obligation to the user, vendor, wholesaler, or other person liable for the tax.

(3) Any other payments or credits due or becoming due the user, vendor, wholesaler, or other person liable as the result of written or oral contracts for services or sales whether denominated as wages, salary, commission, bonus, or otherwise.

(e) In the case of a financial institution, to be effective, the notice shall state the amount due from the taxpayer and shall be delivered or mailed to the branch or office of the financial institution where the credits or other property is held, unless another branch or office is designated by the financial institution to receive the notice.

SEC. 14. Section 9021 of the Revenue and Taxation Code is amended to read:

9021. If any vendor or wholesaler liable for any amount under this part sells out his or her business or stock of goods or quits the business, his or her successor or assigns shall withhold from the purchase price an amount sufficient to cover that amount until the former owner produces a receipt from the board showing that it has been paid or a certificate stating that no amount is due.

SEC. 15. Section 9151 of the Revenue and Taxation Code is amended to read:

9151. If the board determines that any amount not required to be paid under this part has been paid by any person, the board shall set forth that fact in its records and certify to the State Board of Control the amount paid in excess of the amount legally due and the person by whom the excess was paid to the board or from whom it was collected. If the State Board of Control approves, the excess amount paid or collected shall be credited on any amounts then due and payable from the person from whom the excess amount was collected or by whom it was paid under this part, and the balance shall either be refunded to the person, or his or her successors, administrators, executors, or assigns, or, if authorized by the board, deducted by the person from any amounts to become due from him or her under this part.

In the case, however, of a determination by the board that an amount not exceeding fifty thousand dollars ($50,000) was not required to be paid under this part, the board without obtaining the approval of the State Board of Control may credit the amount on any amounts then due and payable under this part from the person by whom the amount was paid and may refund the balance to the person or his or her successors, administrators, or executors.

Any overpayment of the tax by a user to a vendor or wholesaler who is required to collect the tax and who gives the user a receipt therefor pursuant to Section 8732 shall be credited or refunded by the state to the user.

SEC. 16. Section 9351 of the Revenue and Taxation Code is amended to read:

9351. Any person who places or causes to be placed fuel into a receptacle on a motor vehicle from which receptacle fuel is supplied for the propulsion of the vehicle, or who acquires fuel outside this state and uses the fuel for the propulsion of a motor vehicle within this state, is guilty of a misdemeanor unless such person is a vendor or wholesaler and collects the tax as provided under Section 8732 or 8736 or such person is a user who holds a valid use fuel tax permit, or is excluded from that requirement under the provisions of Section 8608 of this part, and uses the fuel placed in the receptacle. He or she shall be fined for each offense not less than one hundred dollars ($100) and not more than one thousand dollars ($1,000), or be imprisoned for not exceeding six months in the county jail, or be subject to both fine and imprisonment in the discretion of the court.

SEC. 17. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

SEC. 18. (a) The sum of eight hundred four thousand five hundred eighty-six dollars ($804,586) is hereby appropriated from the Motor Vehicle Account in the State Transportation Fund to the Controller for allocation as follows:

(1) One hundred forty-nine thousand dollars ($149,000) to the State Air Resources Board for purposes of subdivision (a) of Section 43013.5 of the Health and Safety Code.

(2) Fifty thousand dollars ($50,000) to the State Air Resources Board for purposes of subdivision (b) of Section 43013.5 of the Health and Safety Code.

(b) (1) The sum of six hundred five thousand five hundred eighty-six dollars ($605,586) is hereby transferred, as a loan, from the Motor Vehicle Account in the State Transportation Fund to the General Fund.

(2) The sum of six hundred five thousand five hundred eighty-six dollars ($605,586) is hereby appropriated from the General Fund to the State Board of Equalization for purposes of administering the provisions of Article 1.6 (commencing with Section 6480.10) of Chapter 5 of Part 1 of Division 2 of, and Article 2 (commencing with Section 8736) of Chapter 3.5 of Part 3 of Division 2 of, the Revenue and Taxation Code.

(c) On January 1, 1995, the sum of six hundred five thousand five hundred eighty-six dollars ($605,586) is hereby transferred from the General Fund to the Motor Vehicle Account in the State

Transportation Fund, to repay the loan made pursuant to paragraph (1) of subdivision (b).

SEC. 19. The Legislature finds and declares that additional revenue is to be derived pursuant to the addition of Article 1.6 (commencing with Section 6480.10) to Chapter 5 of Part 1 of Division 2 of, and the addition of Article 2 (commencing with Section 8736) to Chapter 3.5 of Part 3 of Division 2 of, the Revenue and Taxation Code by this act, and that the repayment of the loan from the Motor Vehicle Account in the State Transportation Fund to the General Fund pursuant to Section 18 of this act is to be made from those additional revenues.

CHAPTER 771

An act to amend Section 1067.18 of, and to add Sections 728 and 1748.5 to, the Insurance Code, relating to insurance.

[Approved by Governor October 9, 1991 Filed with Secretary of State October 10, 1991.]

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

SECTION 1. Section 728 is added to the Insurance Code, to read:

728. (a) For the purposes of this section, the following definitions are applicable:

(1) "Subject person" means any director, officer, or employee or other natural person who participates in the management, direction, or control of an insurer.

(2) "Insurer" means any domestic insurer, and any insurer which is admitted to transact insurance in this state, provided that if a subject person of an insurer is not a resident of California, or operating out of a place of business within California, then the subject person shall be engaged in the direct management, direction, or control of the insurer in California in order to come within the provisions of this section.

(b) If, after notice and a hearing, the commissioner finds all of the following, the commissioner may issue an order removing a subject person from his or her office or employment with the insurer and prohibiting the subject person from further participating in any manner in the conduct of the business of the insurer, except with the prior consent of the commissioner:

(1) The subject person has engaged in repeated acts of misconduct with respect to the operations of an insurer which have resulted in substantial financial loss to an insurer.

(2) The misconduct which forms the pattern is fraudulent, or consists of willful acts or omissions involving personal dishonesty in the acceptance, custody, or payment of money or property on the part of the subject person which has endangered or is likely to

endanger the solvency of the insurer.

(3) The pattern of misconduct is relevant in that it demonstrates unfitness to continue as a subject person.

(c) (1) If the commissioner gives written notice pursuant to subdivision (b) to a subject person, the commissioner may immediately issue an order suspending the subject person from his or her office or employment with the insurer and prohibiting the subject person from further participating in any manner in the conduct of the business of an insurer, except with the prior consent of the commissioner if the commissioner: (A) finds that failure to immediately issue such order threatens the financial solvency of the insurer or may otherwise cause immediate and irreparable financial injury to the insurer (B) serves that subject person and the insurer with written notice of the suspension order; and (C) finds that all of the necessary factors are present which would permit the commissioner, after notice and a hearing, to issue an order pursuant to subdivision (b) removing a subject person from his or her office or employment with the insurer and prohibiting the subject person from further participating in any manner in the conduct of the business of an insurer.

(2) Any suspension order issued pursuant to paragraph (1) of this subdivision shall be effective until the date the commissioner dismisses the charges contained in the notice served under subdivision (b) or paragraph (1) of this subdivision, the effective date of an order issued by the commissioner pursuant to subdivision (b), or a court issues a stay of the order pursuant to subdivision (d).

(d) Within 10 days after a subject person has been served with an order of suspension pursuant to subdivision (c), the person may apply to the superior court of the county in which the principal office of the insurer is located for a stay of the order pending completion of the proceedings pursuant to subdivision (b), and the court shall have jurisdiction to issue an order staying the suspension. Nothing in this subdivision shall be deemed to authorize the court to issue a stay order on an ex parte basis.

(e) (1) If the commissioner finds both of the following, he or she may immediately issue an order suspending a subject person from his or her office or employment with an insurer and prohibiting the subject person from further participating in any manner in the conduct of the business of an insurer, except with the prior consent of the commissioner: (A) the subject person has been charged in an indictment issued by a grand jury, or in an information, complaint, or similar pleading issued by a United States Attorney, district attorney, or other governmental official or agency authorized to prosecute crimes, with a crime punishable by imprisonment for a term exceeding one year and which involves as one of its necessary elements a fraudulent act or an act of dishonesty in the acceptance, custody, or payment of money or property; and (B) that a failure to immediately issue the order threatens the financial solvency of the insurer, or may otherwise cause immediate and irreparable financial

injury to the insurer.

In the event the criminal proceedings are terminated other than by judgment of conviction, an order issued pursuant to paragraph (1) of this subdivision shall be deemed rescinded as if it had not been issued.

(2) If the commissioner finds both of the following, he or she may immediately issue an order removing a subject person from his or her office or employment with an insurer and prohibiting the subject person from further participating in any manner in the conduct of the business of the insurer, except with the prior consent of the commissioner: (A) the person has been convicted during the preceding five years of a crime that is punishable by imprisonment for a term exceeding one year and that has as one of its necessary elements a fraudulent act or an act of dishonesty in the accepting, custody, or payment of money or property; and (B) that a failure to immediately issue the order threatens the financial solvency of the insurer, or may otherwise cause immediate and irreparable financial injury to the insurer.

(3) The fact that any subject person charged with a crime involving as one of its necessary elements a fraudulent act or any act of dishonesty in the acceptance, custody, or payment of money or property is not convicted of that crime shall not preclude the commissioner from issuing an order regarding the subject person pursuant to other provisions of this code.

(f) (1) Within 30 days after an order is issued pursuant to subdivision (c) or (e), the person to whom the order is issued may choose to do either of the following: (A) file with the commissioner an application for a hearing on the order. The commissioner shall, upon written request of the person, extend the 30-day period by an additional 30 days provided the request is filed with the commissioner within 30 days after the order is issued. If the commissioner fails to commence the hearing within 15 business days after the application is filed, or within a longer period of time to which the person consents, the order shall be deemed rescinded as if it had not been issued. Within 30 days after the hearing, the commissioner shall affirm, modify, or rescind the order; otherwise, the order shall be deemed rescinded as if it had not been issued, or (B) petition for judicial review of the order pursuant to Section 1085 of the Code of Civil Procedure, where the court shall exercise its independent judgment on the evidence.

(2) The right of any person to whom an order is issued pursuant to subdivision (c) or (e) to petition for judicial review of the order shall not be affected by the failure of that person to apply to the commissioner for a hearing on the order as provided by this subdivision.

(g) (1) Any person to whom an order is issued pursuant to subdivision (b), (c), or (e) may apply to the commissioner to modify or rescind the order. The commissioner shall not grant the application unless he or she finds that it is reasonable to believe that

the person will, if and when he or she becomes a subject person, comply with all of the applicable provisions of this code and of any regulation or order issued thereunder.

(2) The right of any person to whom an order is issued pursuant to subdivision (b), (c), or (e) to petition for judicial review of the order shall not be affected by the failure of that person to apply to the commissioner pursuant to paragraph (1).

(h) (1) It is unlawful for any subject person or former subject person to whom an order is issued pursuant to subdivision (b), (c) or (e) to do any of the following as long as the order is effective, except with the prior consent of the commissioner: (A) to serve or act as a subject person for or in any insurer; or (B) to directly or indirectly solicit, procure, or transfer or attempt to transfer or vote any proxy, consent or authorization with respect to any shares or other securities of any insurer having voting rights.

(2) If, after notice and a hearing, the commissioner finds that any person has violated paragraph (1) of this subdivision, the commissioner may order that person to pay to the commissioner a civil penalty in an amount the commissioner may specify; provided however, that the amount of the civil penalty shall not exceed one thousand dollars ($1,000) for each violation or, in the case of a continuing violation, one thousand dollars ($1,000) for each day for which the violation continues, which may be recovered in a civil action.

In determining the amount of civil penalty to be paid to the commissioner under this paragraph, the commissioner shall consider the financial resources and good faith of the person charged, the gravity of the violation, the history of previous violations by the person, and such other factors as in the opinion of the commissioner may be relevant.

(3) If, after notice and a hearing, the commissioner finds that any insurer has knowingly aided and abetted a subject person in a violation of paragraph (1) of this subdivision, the commissioner may order that insurer to pay to the commissioner a civil penalty in an amount the commissioner may specify; provided however, that the amount of the civil penalty shall not exceed ten thousand dollars ($10,000) for each violation, or in the case of a continuing violation, ten thousand dollars ($10,000) for each day for which the violation continues up to a maximum of one hundred thousand dollars ($100,000), which may be recovered in a civil action. Continuation of the subject person's salary or other employee benefits pending final disposition shall not be considered aiding and abetting a subject person.

In determining the amount of civil penalty to be paid to the commissioner under this paragraph, the commissioner shall consider the financial resources and good faith of the person charged, the gravity of the violation, the history of previous violations by the person, and such other factors as in the opinion of the commissioner may be relevant.

(i) Except as otherwise provided by this section any hearing required by this section shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, subject to the following:

(1) At the option of the subject person, all such hearings shall be a closed session and private, and the records of the hearings shall not be made public unless the hearing results in a final order adverse to the subject person.

(2) Where judicial review is sought by the subject person pursuant to Section 11523 of the Government Code, the court shall exercise its independent judgment upon the evidence.

(3) When a subject person to whom an order has been issued pursuant to subdivision (c) or (e) applies to the commissioner for a hearing pursuant to subparagraph (A) of paragraph (1) of subdivision (f), the Office of Administrative Hearings shall schedule the hearing on a priority basis at the earliest possible time and once the hearing is commenced, it shall not be continued for more than three business days without the consent of the subject person.

(4) If the Office of Administrative Hearings cannot schedule the commencement of a hearing within 15 business days as provided by paragraph (1) of subdivision (f), and the subject person does not waive his or her right to a hearing commencing within 15 days, the hearings may be conducted by administrative law judges appointed by the commissioner. In the event the subject person chooses to accept a hearing before an administrative law judge appointed by the commissioner, the hearing shall be completed within 45 days of commencement unless additional time is requested by the subject person. If the hearing is not completed within 45 days, the order shall be deemed rescinded as if it had not been issued.

(j) Nothing in this section is intended to or shall be construed to create a private cause of action against an offending subject person or an insurer or production agency that aids and abets a subject person, based on the standards established by this section or the commissioner's findings or orders pursuant to this section.

SEC. 2. Section 1067.18 of the Insurance Code is amended to read:

1067.18. This article shall not apply to any insurer that is found by the commissioner, prior to January 1, 1991, to have been insolvent or impaired, or unable to fulfill its contractual obligations.

SEC. 3. Section 1748.5 is added to the Insurance Code, to read:

1748.5. (a) For the purposes of this section, the following definitions are applicable:

(1) "Production agency" means any person or organization licensed under Chapter 5 (commencing with Section 1621), Chapter 5A (commencing with Section 1759), Chapter 6 (commencing with Section 1760), Chapter 7 (commencing with Section 1800), or Chapter 8 (commencing with Section 1831).

(2) "Subject person" means any director, officer or employee of a production agency, any natural person who participates in the

management or control of the business of a production agency, or any person licensed as a producer. A subject person of a production agency participates in the control of a production agency if he or she comes within the definition of "controlling person" as specified in subdivision (b) of Section 1668.5.

(3) "Insurer" means any domestic insurer, and any insurer which is admitted to transact insurance in this state, provided that if a subject person of an insurer is not a resident of California, or operating out of a place of business within California, then the subject person shall be engaged in direct management, direction, or conduct of the business of insurance in California in order to come within the provisions of this section.

(b) If, after notice and a hearing, the commissioner finds all of the following, the commissioner may issue an order removing a subject person from his or her office or employment with the production agency and prohibiting the subject person from further participating in any manner in the conduct of the business of an insurer or production agency, except with the prior consent of the commissioner:

(1) The subject person has engaged in repeated acts of misconduct with respect to an insurer or production agency which is a direct cause of substantial financial loss to an insurer or the production agency or which has resulted in direct financial injury to insurance policyholders or applicants.

(2) The misconduct is fraudulent, or consists of willful acts or omissions involving personal dishonesty that demonstrates a continuing disregard for the safety and soundness of an insurer or production agency, or presents a direct financial injury to insurance policyholders or applicants.

(3) The conduct or practice is relevant in that it demonstrates unfitness to continue as a subject person.

(c) (1) If the commissioner gives written notice pursuant to subdivision (b) to a subject person, the commissioner may immediately issue an order suspending the subject person from his or her office with the production agency and prohibiting the subject person from further participating in any manner in the business of an insurer or production agency, except with the prior consent of the commissioner, if the commissioner: (A) finds that failure to immediately issue the order threatens the financial solvency of an insurer or may otherwise cause direct financial injury to insurance policyholders or applicants ; (B) serves that subject person and the production agency with written notice of the suspension order; and (C) finds that all of the necessary factors are present which would permit the commissioner, after notice and a hearing, to issue an order pursuant to subdivision (b) removing a subject person from his or her office or employment with the production agency and prohibiting the subject person from further participating in any manner in the business of an insurer or production agency.

(2) Any suspension order issued pursuant to paragraph (1) of this

subdivision shall be effective until the date the commissioner dismisses the charges contained in the notice served under subdivision (b) or paragraph (1) of this subdivision, the effective date of an order issued by the commissioner pursuant to subdivision (b), or a court issues a stay of the order pursuant to subdivision (d).

(d) Within 10 days after a subject person has been served with an order of suspension pursuant to subdivision (c), the person may apply to the superior court of the county in which the principal office of the production agency is located for a stay of the order pending completion of the proceedings pursuant to subdivision (b), and the court shall have jurisdiction to issue an order staying the suspension. Nothing in this subdivision shall be deemed to authorized the court to issue a stay order on a ex parte basis.

(e) (1) If the commissioner finds both of the following, he or she may immediately issue an order suspending a subject person from his or her office or employment with a production agency and prohibiting the subject person from further participating in any manner in the conduct of the business of an insurer or production agency, except with the prior consent of the commissioner: (A) the subject person has been charged in an indictment issued by a grand jury, or in an information, complaint, or similar pleading issued by a United States Attorney, district attorney, or other governmental official or agency authorized to prosecute crimes, with a crime punishable by imprisonment for a term exceeding one year and which involves as one of its necessary elements a fraudulent act or an act of dishonesty in the acceptance, custody, or payment of money or property; and (B) that a failure to immediately issue the order threatens the financial solvency of an insurer or may otherwise cause direct financial injury to insurance policyholders or applicants.

In the event the criminal proceedings are terminated other than by judgment of conviction, an order issued pursuant to paragraph (1) of this subdivision shall be deemed rescinded as if it had not been issued.

(2) If the commissioner finds both of the following, he or she may immediately issue an order removing a subject person from his or her office or employment with a production agency and prohibiting the subject person from further participating in any manner in the business of an insurer or production agency, except with the prior consent of the commissioner: (A) the person has during the preceding five years been convicted of a crime that is punishable by imprisonment for a term exceeding one year and has as one of its necessary elements a fraudulent act or an act of dishonesty in the accepting, custody, or payment of money or property; and (B) that a failure to immediately issue the order threatens the financial solvency of an insurer or may otherwise cause direct financial injury to insurance policyholders or applicants.

(3) The fact that any subject person charged with a crime involving as one of its necessary elements a fraudulent act or any act of dishonesty in the acceptance, custody, or payment of money or

property is not convicted of that crime shall not preclude the commissioner from issuing an order regarding the subject person pursuant to other provisions of this code.

(f) (1) Within 30 days after an order is issued pursuant to subdivision (c) or (e), the subject person to whom the order is issued may choose to do either of the following: (A) file with the commissioner an application for a hearing on the order. The commissioner shall, upon the written request of the subject person, extend the 30-day period by an additional 30 days provided the request is filed with the commissioner within 30 days after the order is issued. If the commissioner fails to commence the hearing within 15 business days after the application is filed, or within a longer period of time to which the subject person consents, the order shall be deemed rescinded as if it had not been issued. Within 30 days after the hearing, the commissioner shall affirm, modify, or rescind the order; otherwise, the order shall be deemed rescinded as if it had not been issued, or (B) petition for judicial review of the order pursuant to Section 1085 of the Code of Civil Procedure, where the court shall exercise its independent judgment on the evidence.

(2) The right of any subject person to whom an order is issued pursuant to subdivision (c) or (e) to petition for judicial review of the order shall not be affected by the failure of that subject person to apply to the commissioner for a hearing on the order as provided by this subdivision.

(g) (1) Any person to whom an order is issued pursuant to subdivision (b), (c), or (e) may apply to the commissioner to modify or rescind the order. The commissioner shall not grant the application unless he or she finds that it is reasonable to believe that the person will, if and when he or she becomes a subject person, comply with all of the applicable provisions of this code and of any regulation or order issued thereunder.

(2) The right of any subject person to whom an order is issued pursuant to subdivision (b), (c), or (e) to petition for judicial review of the order shall not be affected by the failure of that subject person to apply to the commissioner pursuant to paragraph (1).

(h) (1) It is unlawful for any subject person or former subject person to whom an order is issued pursuant to subdivision (b), (c), or (e) to do any of the following as long as the order is in effect, except with the prior consent of the commissioner: (A) to serve or act as a subject person for any insurer or production agency; or (B) to directly or indirectly vote any shares or other securities of an insurer or production agency.

(2) If, after notice and a hearing, the commissioner finds that any subject person has violated paragraph (1) of this subdivision, the commissioner may order that subject person to pay to the commissioner a civil penalty, which may be recovered in a civil action, in an amount the commissioner may specify; provided however, that the amount of the civil penalty shall not exceed one thousand dollars ($1,000) for each day for which the violation

continues.

In determining the amount of civil penalty to be paid to the commissioner under this paragraph, the commissioner shall consider the financial resources and good faith of the subject person charged, the gravity of the violation, the history of previous violations by the person, and other factors as in the opinion of the commissioner may be relevant.

(3) If, after notice and a hearing, the commissioner finds that any production agency has knowingly aided and abetted a subject person in a violation of paragraph (1) of this subdivision, or subdivision (h) of Section 728, the commissioner may order that production agency to pay to the commissioner a civil penalty in an amount the commissioner may specify; provided however, that the amount of the civil penalty shall not exceed one thousand dollars ($1,000) for each violation or in the case of a continuing violation, one thousand dollars ($1,000) for each day for which the violation continues, up to a maximum of fifty thousand dollars ($50,000). Continuation of the subject person's salary or other employee benefits pending final disposition shall not be considered aiding and abetting a subject person.

In determining the amount of civil penalty to be paid to the commissioner under this paragraph, the commissioner shall consider the financial resources and good faith of the subject person charged, the gravity of the violation, the history of previous violations by the person, and other factors as in the opinion of the commissioner may be relevant.

(i) Except as otherwise provided by this section, any hearing required by this section shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, subject to the following:

(1) At the option of the subject person, all hearings shall be a closed session and private, and the records of the hearings shall not be made public unless the hearing results in a final order adverse to the subject person.

(2) Where judicial review is sought by the subject person pursuant to Section 1085 of the Code of Civil Procedure, the court shall exercise its independent judgment upon the evidence.

(3) When a subject person to whom an order has been issued pursuant to subdivision (c) or (e) applies to the commissioner for a hearing pursuant to subparagraph (A) of paragraph (1) of subdivision (f), the Office of Administrative Hearings shall schedule the hearing on a priority basis at the earliest possible time and once the hearing is commenced, it shall not be continued for more than three business days without the consent of the subject person.

(4) If the Office of Administrative Hearings cannot schedule the commencement of a hearing within 15 business days as provided by paragraph (1) of subdivision (f), and the subject person does not waive his or her right to a hearing commencing within 15 days, the hearings may be conducted by administrative law judges appointed

by the commissioner; the hearing shall be completed within 45 days of commencement, unless additional time is requested by the subject person. If the hearing is not completed within the 45 days, the order shall be deemed rescinded as if it had not been issued. The scheduling of other hearings before the administrative law judge shall not be considered good cause for purposes of this paragraph.

(j) Nothing in this section is intended to or shall be construed to create a private cause of action against an offending subject person or insurer or production agency that aids and abets a subject person, based on the standards established by this section or the commissioner's findings or orders pursuant to this section.

CHAPTER 772

An act to add Section 1653.5 to the Vehicle Code, relating to the Department of Motor Vehicles.

[Approved by Governor October 9, 1991. Filed with Secretary of State October 10, 1991.]

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

SECTION 1. Section 1653.5 is added to the Vehicle Code, to read:

1653.5. (a) Every form prescribed by the department for use by an applicant for the issuance or renewal by the department of a driver's license or identification card pursuant to Division 6 (commencing with Section 12500), or for the issuance, renewal, or transfer of the registration of, or certificate of title to, a motor vehicle or vehicle shall contain a section for the applicant's social security account number.

(b) Any person who submits to the department a form which, pursuant to subdivision (a), contains a section for the applicant's social security account number, shall furnish that number in the space provided.

(c) The department shall not accept any application which does not include the applicant's social security account number as required by subdivision (b).

(d) An applicant's social security account number shall not be included by the department on any driver's license, identification card, registration, certificate of title, or any other document issued by the department.

(e) Notwithstanding any other provision of law, information regarding an applicant's social security account number, obtained by the department pursuant to this section, is not a public record and shall not be disclosed by the department except for either of the following purposes:

(1) Responding to a request for information from an agency operating pursuant to, and carrying out the provisions of, Part A (Aid

to Families with Dependent Children), Part D (Child Support and Establishment of Paternity), or Part E (Federal Payments for Foster Care and Adoption Assistance) of Subchapter IV of Chapter 7 of Title 42 of the United States Code.

(2) Enforcement of Section 4760.1 or 12808.1.

CHAPTER 773

An act to amend Sections 32261, 32262, 32270, 32271, 32280, 32290, 32295, and 51264 of, to add Section 44276.6 to, and to repeal Section 32296 of, the Education Code, relating to education.

[Approved by Governor October 9, 1991 Filed with Secretary of State October 10, 1991.]

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

SECTION 1. Section 32261 of the Education Code is amended to read:

32261. The Legislature hereby recognizes that all pupils enrolled in the state public schools have the inalienable right to attend classes on campuses which are safe, secure, and peaceful. The Legislature also recognizes that pupils cannot fully benefit from an educational program unless they attend school on a regular basis. In addition, the Legislature further recognizes that school crime, vandalism, truancy, and excessive absenteeism are significant problems on far too many school campuses in the state.

The Legislature hereby finds and declares that the establishment of an interagency coordination system is the most efficient and long-lasting means of resolving school and community problems of truancy and crime, including vandalism, drug and alcohol abuse, gang membership, and gang violence.

It is the intent of the Legislature in enacting this chapter to encourage California public schools to develop comprehensive safety plans that are the result of a systematic planning process, that include strategies aimed at the prevention of, and education about, potential incidents involving crime and violence on school campuses, and that address the safety concerns of local law enforcement agencies, community leaders, parents, pupils, teachers, administrators, school police, and other school employees interested in the prevention of school crime and violence.

It is the intent of the Legislature in enacting this chapter to encourage school districts, county offices of education, and law enforcement agencies to develop and implement interagency strategies, in-service training programs, and activities that will improve school attendance and reduce the rates of school crime, including vandalism, drug and alcohol abuse, gang membership, and gang violence.

It is the intent of the Legislature in enacting this chapter that the School/Law Enforcement Partnership shall not duplicate any existing gang or drug and alcohol abuse program currently provided for schools.

SEC. 2. Section 32262 of the Education Code is amended to read:

32262. (a) There is hereby established the School/Law Enforcement Partnership, comprised of the Superintendent of Public Instruction and the Attorney General. The duties of the partnership shall consist of all of the following:

(1) The development of programs and policies necessary to implement the provisions of Article 10.3 (commencing with Section 35294) of Chapter 2 of Part 21.

(2) The administration of interagency safe school programs, procedures, and activities conducted pursuant to this chapter.

(3) The formulation of recommendations to be submitted as part of an annual report to the Legislature regarding the implementation of this chapter.

(4) Cooperation with other states and state and federal agencies on matters relating to school safety.

(b) As used in this chapter, the term "partnership" means the School/Law Enforcement Partnership established by this section.

SEC. 3. Section 32270 of the Education Code is amended to read:

32270. (a) From funds appropriated for that purpose, the partnership shall establish interagency safe school programs in accordance with the requirements of this article to address the problems of school safety, truancy, excessive absenteeism, and school crime including vandalism, drug and alcohol abuse, gang membership, and gang violence.

(b) The partnership shall select program participants from applications submitted by school districts and county offices of education. Approved applications shall include elementary school districts; high school districts; and unified school districts or county offices of education, or any combination of unified school districts or county offices, to participate in the program. In selecting program applicants, the Superintendent of Public Instruction shall ensure that the approved programs are broadly representative of the geographic and ethnic diversity of the state.

(c) The partnership shall encourage applicants for interagency school safety programs addressing the problems of drug and alcohol abuse, gang membership, and gang violence to review available materials and programs established and funded by the Drug-Free Schools and Communities Program that exists within the State Department of Education and the Office of Criminal Justice Planning's comprehensive alcohol and drug prevention education component of the Suppression of Drug Abuse in Schools program pursuant to Chapter 7 (commencing with Section 13860) of Title 6 of Part 4 of the Penal Code and the gang prevention education component of the Gang Violence Suppression program pursuant to Chapter 3.5 (commencing with Section 13826) of Title 6 of Part 4 of

the Penal Code.

(d) The project period for approved programs shall not exceed three years.

(e) As used in this chapter, the term "school district" shall be construed to include county offices of education.

SEC. 4. Section 32271 of the Education Code is amended to read:

32271. Applications to establish interagency safe school programs shall be jointly submitted by applicant school districts and the appropriate law enforcement agencies for that district to address local school safety topics, including, but not necessarily limited to, all of the following:

(a) The reduction of school crime, including vandalism, drug and alcohol abuse, gang membership, and gang violence.

(b) The improvement of school attendance.

(c) The reduction of truancy rates.

(d) The reduction of school dropout rates.

(e) Other topics which impact upon school safety including, but not limited to, child abuse and strategies for parental and community education programs.

SEC. 5. Section 32280 of the Education Code is amended to read:

32280. (a) The partnership shall sponsor at least two regional conferences for school districts, county offices of education, and law enforcement agencies to identify exemplary programs and techniques that have been effectively utilized by public schools to reduce school crime, including vandalism, drug and alcohol abuse, gang membership and gang violence, truancy, and excessive absenteeism.

(b) Each regional conference shall include, but need not be limited to, information on all of the following topics:

(1) Interagency cooperation between schools and law enforcement agencies.

(2) School attendance.

(3) School safety.

(4) Citizenship education.

(5) Drug and alcohol abuse.

(6) Child abuse.

(7) Parental education.

SEC. 6. Section 32290 of the Education Code is amended to read:

32290. (a) The partnership shall establish statewide interagency school safety cadre for the purpose of facilitating interagency coordination among school districts, county offices of education, and law enforcement agencies to improve school attendance, encourage good citizenship, and to reduce school violence, school crime, including vandalism, drug and alcohol abuse, gang membership and gang violence, and truancy rates.

(b) The partnership shall appoint up to 100 professionals from education and law enforcement to the statewide cadre.

(c) The partnership shall provide training to the statewide cadre representatives to enable them to initiate and maintain interagency

school safety programs among school districts, county offices of education, and law enforcement agencies in each region.

SEC. 7. Section 32295 of the Education Code is amended to read:

32295. The partnership shall annually evaluate the programs and activities under the Interagency School Safety Demonstration Act of 1985 and shall submit a report to the Legislature which shall also be made available for public inspection, on or before January 1 of each year. The evaluation shall include, but not be limited to, all of the following:

(a) An evaluation of the appropriateness and effectiveness of regional conferences conducted pursuant to Article 3 (commencing with Section 32280).

(b) An evaluation of the extent to which the statewide interagency school safety cadre have been able to provide appropriate technical assistance to school districts, county offices of education, and law enforcement agencies.

(c) An evaluation of the extent to which interagency safe school programs have succeeded in reaching and positively affecting schools and communities sponsoring the programs by measuring all of the following:

(1) The reduction of school crime, including drug and alcohol abuse, gang membership, gang violence, and vandalism.

(2) The improvement of school attendance.

(3) The reduction of school truancy.

(4) The reduction of school dropout rates.

(5) Other measurements impacting on school safety.

(d) Specific recommendations regarding the methods and means through which interagency programs may be replicated and disseminated on a statewide basis.

SEC. 8. Section 32296 of the Education Code is repealed.

SEC. 9. Section 44276.6 is added to the Education Code, to read:

44276.6. It is the intent of the Legislature that the Commission on Teacher Credentialing not duplicate the efforts of the State Department of Education, Office of Criminal Justice Planning, Department of the Youth Authority, and the School/Law Enforcement Partnership in implementation of the provisions of Section 44276.5. The commission shall consult with these agencies and consider policies, programs, guidelines, other resource and training materials, and experts, which these agencies have identified, funded, or developed to reduce violent behavior by pupils.

SEC. 10. Section 51264 of the Education Code is amended to read:

51264. (a) The State Department of Education shall prepare and distribute to school districts and county offices of education, no later than February 15, 1989, guidelines for incorporating in-service training in gang violence and drug and alcohol abuse prevention for teachers, counselors, athletic directors, school board members, and other educational personnel into the staff development plans of all school districts and county offices of education.

(b) The department shall, upon request, assist school districts and

county offices of education in developing comprehensive gang violence and drug and alcohol abuse prevention in-service training programs. The department's information and guidelines, to the maximum extent possible, shall encourage school districts and county offices of education to avoid duplication of effort by sharing resources, adapting or adopting model in-service training programs, developing joint and collaborative programs, and coordinating efforts with existing state staff development programs, county gang violence and drug and alcohol staff development programs, county health departments, county and city law enforcement agencies, and other public and private agencies providing health, drug, alcohol, gang violence prevention, or other related services at the local level.

(c) The department shall assist school districts and county offices of education in qualifying for the receipt of federal and state funds to support their gang violence and drug and alcohol abuse prevention in-service training programs.

(d) Each school that chooses to utilize the provisions of this article related to in-service training in gang violence and drug and alcohol abuse prevention, is encouraged to develop a single plan to strengthen its gang violence and drug and alcohol abuse prevention efforts. If a school develops or has developed a school improvement plan pursuant to Article 2 (commencing with Section 52010) of Chapter 6 of Part 28, or a school safety plan pursuant to Article 10.3 (commencing with Section 35294) of Chapter 2 of Part 21, it is encouraged to incorporate into that plan, where appropriate, the gang violence and drug and alcohol prevention plan that it has developed.

(e) The department shall consult with the Office of Criminal Justice Planning regarding gang violence.

(f) On or before August 15 of each year, the department shall report to the Legislative Analyst and the fiscal, education, and appropriate select committees of each house of the Legislature, on the status of gang violence and drug and alcohol abuse prevention in-service training programs provided by school districts and county offices of education.

CHAPTER 774

An act to amend the heading of Chapter 11 (commencing with Section 15600) of Part 3 of Division 9 of, to amend Section 15600 of, and to add Article 8.5 (commencing with Section 15657) to Chapter 11 of Part 3 of Division 9 of, the Welfare and Institutions Code, relating to abuse of elders and dependent adults.

[Approved by Governor October 9, 1991. Filed with Secretary of State October 10, 1991.]

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

SECTION 1. The heading of Chapter 11 (commencing with Section 15600) of Part 3 of Division 9 of the Welfare and Institutions Code is amended to read:

CHAPTER 11. ELDER ABUSE AND DEPENDENT ADULT CIVIL PROTECTION ACT

SEC. 2. Section 15600 of the Welfare and Institutions Code is amended to read:

15600. (a) The Legislature recognizes that elders and dependent adults may be subjected to abuse, neglect, or abandonment and that this state has a responsibility to protect these persons.

(b) The Legislature further recognizes that a significant number of these persons are elderly. The Legislature desires to direct special attention to the needs and problems of elderly persons, recognizing that these persons constitute a significant and identifiable segment of the population and that they are more subject to risks of abuse, neglect, and abandonment.

(c) The Legislature further recognizes that a significant number of these persons have developmental disabilities and that mental and verbal limitations often leave them vulnerable to abuse and incapable of asking for help and protection.

(d) The Legislature recognizes that most elders and dependent adults who are at the greatest risk of abuse, neglect, or abandonment by their families or caretakers suffer physical impairments and other poor health that place them in a dependent and vulnerable position.

(e) The Legislature further recognizes that factors which contribute to abuse, neglect, or abandonment of elders and dependent adults are economic instability of the family, resentment of caretaker responsibilities, stress on the caretaker, and abuse by the caretaker of drugs or alcohol.

(f) The Legislature declares that this state shall foster and promote community services for the economic, social, and personal well-being of its citizens in order to protect those persons described in this section.

(g) The Legislature further declares that uniform state guidelines, which specify when county adult protective service agencies are to investigate allegations of abuse of elders and dependent adults and the appropriate role of local law enforcement, do not currently exist, and the implementation of these guidelines is necessary in order to ensure that a minimum level of protection is provided to elders and dependent adults in each county.

(h) The Legislature further finds and declares that infirm elderly

persons and dependent adults are a disadvantaged class, that cases of abuse of these persons are seldom prosecuted as criminal matters, and few civil cases are brought in connection with this abuse due to problems of proof, court delays, and the lack of incentives to prosecute these suits.

(i) Therefore, it is the intent of the Legislature in enacting this chapter to provide that adult protective services agencies, local long-term care ombudsman programs, and local law enforcement agencies shall receive referrals or complaints from public or private agencies, from any mandated reporter submitting reports pursuant to Section 15630, or from any other source having reasonable cause to know that the welfare of an elder or dependent adult is endangered, and shall take any actions considered necessary to protect the elder or dependent adult and correct the situation and ensure the individual's safety.

(j) It is the further intent of the Legislature in adding Article 6 (commencing with Section 15660) to this chapter to enable interested persons to engage attorneys to take up the cause of abused elderly persons and dependent adults.

SEC. 3. Article 8.5 (commencing with Section 15657) is added to Chapter 11 of Part 3 of Division 9 of the Welfare and Institutions Code, to read:

Article 8.5. Civil Actions for Abuse of Elderly or Dependent Adults

15657. Where it is proven by clear and convincing evidence that a defendant is liable for physical abuse as defined in subdivision (c) of Section 15610, neglect as defined in subdivision (d) of Section 15610, or fiduciary abuse as defined in subdivision (f) of Section 15610, and that the defendant has been guilty of recklessness, oppression, fraud, or malice in the commission of this abuse, in addition to all other remedies otherwise provided by law·

(a) The court shall award to the plaintiff reasonable attorney's fees and costs. The term "costs" includes, but is not limited to, reasonable fees for the services of a conservator, if any, devoted to the litigation of a claim brought under this article.

(b) The limitations imposed by subdivision (c) of Section 573 of the Probate Code on the damages recoverable shall not apply. However, the damages recovered shall not exceed the damages permitted to be recovered pursuant to subdivision (b) of Section 3333.2 of the Civil Code.

(c) The standards set forth in subdivision (b) of Section 3294 of the Civil Code regarding the imposition of punitive damages on an employer based upon the acts of an employee shall be satisfied before any damages or attorney's fees permitted under this section may be imposed against an employer.

15657.1. The award of attorney's fees pursuant to subdivision (a) of Section 15660 shall be based on all factors relevant to the value of

the services rendered, including, but not limited to, the factors set forth in Rule 4-200 of the Rules of Professional Conduct of the State Bar of California, and all of the following:

(a) The value of the abuse-related litigation in terms of the quality of life of the elder or dependent adult, and the results obtained.

(b) Whether the defendant took reasonable and timely steps to determine the likelihood and extent of liability.

(c) The reasonableness and timeliness of any written offer in compromise made by a party to the action.

15657.2. Notwithstanding this article, any cause of action for injury or damage against a health care provider, as defined in Section 340.5 of the Code of Civil Procedure, based on the health care provider's alleged professional negligence, shall be governed by those laws which specifically apply to those professional negligence causes of action.

15657.3. (a) The department of the superior court having jurisdiction over probate conservatorships shall also have concurrent jurisdiction over civil actions and proceedings involving a claim for relief arising out of the abuse of an elderly or dependent adult, if a conservator has been appointed for plaintiff prior to the initiation of the action for abuse.

(b) The department of the superior court having jurisdiction over probate conservatorships shall not grant relief under this article if the court determines that the matter should be determined in a civil action, but shall instead transfer the matter to the general civil calendar of the superior court. The court need not abate any proceeding for relief pursuant to this article if the court determines that the civil action was filed for the purpose of delay.

(c) The death of the elder or dependent adult does not cause the court to lose jurisdiction of any claim for relief for abuse of an elder or dependent adult.

(d) Upon petition, after the death of the elder or dependent adult, the right to maintain an action shall be transferred to the personal representative of the decedent, or if none, to the person or persons entitled to succeed to the decedent's estate.

SEC. 4. Article 8.5 (commencing with Section 15657) is added to Chapter 11 of Part 3 of Division 9 of the Welfare and Institutions Code, to read:

Article 8.5. Civil Actions for Abuse of Elderly or Dependent Adults

15657. Where it is proven by clear and convincing evidence that a defendant is liable for physical abuse as defined in Section 15610.63, neglect as defined in Section 15610.57, or fiduciary abuse as defined in Section 15610.30, and that the defendant has been guilty of recklessness, oppression, fraud, or malice in the commission of this abuse, in addition to all other remedies otherwise provided by law:

(a) The court shall award to the plaintiff reasonable attorney's

fees and costs. The term "costs" includes, but is not limited to, reasonable fees for the services of a conservator, if any, devoted to the litigation of a claim brought under this article.

(b) The limitations imposed by subdivision (c) of Section 573 of the Probate Code on the damages recoverable shall not apply. However, the damages recovered shall not exceed the damages permitted to be recovered pursuant to subdivision (b) of Section 3333.2 of the Civil Code.

(c) The standards set forth in subdivision (b) of Section 3294 of the Civil Code regarding the imposition of punitive damages on an employer based upon the acts of an employee shall be satisfied before any damages or attorney's fees permitted under this section may be imposed against an employer.

15657.1. The award of attorney's fees pursuant to subdivision (a) of Section 15660 shall be based on all factors relevant to the value of the services rendered, including, but not limited to, the factors set forth in Rule 4-200 of the Rules of Professional Conduct of the State Bar of California, and all of the following:

(a) The value of the abuse-related litigation in terms of the quality of life of the elder or dependent adult, and the results obtained.

(b) Whether the defendant took reasonable and timely steps to determine the likelihood and extent of liability.

(c) The reasonableness and timeliness of any written offer in compromise made by a party to the action.

15657.2. Notwithstanding this article, any cause of action for injury or damage against a health care provider, as defined in Section 340.5 of the Code of Civil Procedure, based on the health care provider's alleged professional negligence, shall be governed by those laws which specifically apply to those professional negligence causes of action.

15657.3. (a) The department of the superior court having jurisdiction over probate conservatorships shall also have concurrent jurisdiction over civil actions and proceedings involving a claim for relief arising out of the abuse of an elderly or dependent adult, if a conservator has been appointed for plaintiff prior to the initiation of the action for abuse.

(b) The department of the superior court having jurisdiction over probate conservatorships shall not grant relief under this article if the court determines that the matter should be determined in a civil action, but shall instead transfer the matter to the general civil calendar of the superior court. The court need not abate any proceeding for relief pursuant to this article if the court determines that the civil action was filed for the purpose of delay.

(c) The death of the elder or dependent adult does not cause the court to lose jurisdiction of any claim for relief for abuse of an elder or dependent adult.

(d) Upon petition, after the death of the elder or dependent adult, the right to maintain an action shall be transferred to the personal representative of the decedent, or if none, to the person or persons

entitled to succeed to the decedent's estate.

SEC. 5. Section 4 of this bill incorporates changes to references to code sections renumbered by SB 1177, and shall only become operative if SB 1177 is chaptered and becomes operative, in which case Section 3 of this bill shall not become operative.

CHAPTER 775

An act to amend Sections 164.1, 164.16, 179.4, 263, 263.7, 531, 731, and 2127 of, to add Sections 164.35 and 561 to, and to repeal Section 199.5 of, the Streets and Highways Code, relating to highways.

[Approved by Governor October 9, 1991 Filed with Secretary of State October 10, 1991.]

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

SECTION 1. Section 164.1 of the Streets and Highways Code is amended to read:

164.1. (a) The department, in cooperation with local transportation officials, shall develop guidelines to implement the Traffic Systems Management Program in the major urbanized areas of the state. Traffic systems management projects are those projects designed to increase the number of person-trips which can be carried on the highway system in a peak period without significantly increasing the designed capacity of the highway system when measured by the number of vehicle-trips and without increasing the number of through traffic lanes.

(b) The guidelines shall describe the types of capital projects to be eligible for funding under the program, which shall be based upon the development of effective traffic management systems through the use of traffic operations control systems, including, but not limited to, restriping, ramp meters, meter bypass lanes, computerized signals, changeable message signs, television surveillance, and integrated single-system state and local traffic operations centers. The guidelines shall also specify the criteria to be used in setting priorities for funding the projects. The criteria may include, but are not limited to, achieving the most traffic congestion relief for each state dollar spent, the rapidity with which the project will relieve traffic congestion, and the usefulness of demonstration projects to implement research and development in the field of traffic operations control systems.

(c) The department shall submit the guidelines to the commission by September 1, 1989. The commission shall approve the guidelines by November 1, 1989.

(d) By March 1, 1990, and each December 1 thereafter, pursuant to the guidelines, the department shall submit to the commission a traffic systems management plan which includes a consolidated

priority list of projects submitted from local congestion management plans.

(e) The commission may allocate funds to any project on the priority list if the commission determines that there are sufficient funds available during the same fiscal year to fund all of he higher priority projects which the commission expects to be ready for encumbrance during that fiscal year.

(f) The commission shall give first priority to funding projects in counties and cities that have an approved congestion management program and are fully cooperating with the implementation of traffic systems management projects.

SEC. 2. Section 164.16 of the Streets and Highways Code is amended to read:

164.16. For purposes of subdivision (e) of Section 164.3, the eligible interregional and intercounty routes include all of the following:

Route 120, between Route 5 and Route 395.

Route 126, between the east urban limits of Oxnard-Ventura-Thousand Oaks and Route 5.

Route 127.

Route 128.

Route 132, west of Route 99.

Route 138, between Route 5 and Route 18.

Route 139, between Route 299 and the Oregon state line.

SEC. 3. Section 164.35 is added to the Streets and Highways Code, to read:

164.35. (a) As a part of the process of developing and adopting the 1994 state transportation improvement program, the department shall, by April 1, 1993, adopt guidelines permitting county transportation commissions which include one or more nonurbanized areas to prepare and submit to the department recommendations for changes in the interregional and intercounty routes which are eligible for purposes of subdivision (e) of Section 164.3. The department shall require that any recommended changes be transmitted to the department by October 1, 1993.

(b) The department shall, on or before January 1, 1994, prepare and submit to the Legislature a report which shall include, but not be limited to, a summary of all recommended changes received pursuant to subdivision (a) and its recommendations for any changes in the eligible routes as specified in Sections 164.10 to 164.20, inclusive, or in the projects included in the plan.

SEC. 4. Section 179.4 of the Streets and Highways Code is amended to read:

179.4. (a) The department and the Counties of Los Angeles and Santa Clara shall immediately proceed to implement this article by developing criteria for the assessment and prioritization of bridge retrofit needs and by collecting data that will be evaluated by that criteria. The director shall establish a statewide priority list for seismic retrofit projects based on the bridge assessments performed

by the department and the Counties of Los Angeles and Santa Clara, taking into account the assigned risk given to any bridge or structure, the exposure of the public in case of a structural failure, and the probability of the occurrence of an earthquake in any given area.

(b) (1) The department and the Counties of Los Angeles and Santa Clara shall prepare or cause the preparation of retrofit plans, specifications, and estimates for all projects included in the priority list established pursuant to subdivision (a). All affected local agencies, for projects within their respective jurisdictions, and the department, with respect to projects on state highways, shall by December 31, 1991, execute the necessary construction contracts for all projects on the priority list, except that, upon a local agency's notification of the director, the date for execution of construction contracts for projects on the priority list shall be extended to December 31, 1992.

(2) Notwithstanding paragraph (1), construction contracts for projects involving the retrofitting of multiple-column bents, for which the identification of appropriate structural solutions is dependent upon active research, may be delayed so long as they are executed on or before December 31, 1993.

(3) All deficient bridges and structures shall be retrofitted or replaced by December 31, 1992, or, in the case of a local agency which has notified the director pursuant to paragraph (1), by December 31, 1993, except for bridges and structures involving the retrofitting of multiple-column bents, which shall be completed by December 31, 1994.

SEC. 5. Section 199.5 of the Streets and Highways Code is repealed.

SEC. 6. Section 263 of the Streets and Highways Code is amended to read:

263. The state scenic highway system is hereby established and shall be composed of the highways specified in this article. The highways listed in Sections 263.1 to 263.8, inclusive, are either eligible for designation as state scenic highways or have been so designated.

SEC. 7. Section 263.7 of the Streets and Highways Code is amended to read:

263.7. The state scenic highway system shall also include:

Route 138 from Route 2 near Wrightwood to Route 18 near Mt. Anderson.

Route 139 from Route 299 near Canby to the Oregon state line near Hatfield.

Route 140 from Route 49 at Mariposa to Yosemite National Park near El Portal.

Route 142 from the Orange-San Bernardino county line to Peyton Drive.

Route 146 from Pinnacles National Monument to Route 25 in Bear Valley.

Route 152 from:

(a) Route 1 to the Santa Clara county line at Hecker Pass.

(b) Route 156 near San Felipe to Route 5.

Route 160 from Route 4 near Antioch to Sacramento.

Route 163 from Ash Street in San Diego to Route 8.

Route 166 from Route 101 near Santa Maria to Route 33 in Cuyama Valley.

Route 168 from:

(a) Route 65 near Clovis to Huntington Lake.

(b) Camp Sabrina to Route 395.

(c) Route 395 at Big Pine to Route 266 at Oasis.

Route 174 from the Bear River to the Grass Valley city limits.

Route 178 from the east boundary of Death Valley National Monument to Route 127 near Shoshone.

Route 180 from:

(a) Route 65 near Minkler to General Grant Grove section of Kings Canyon National Park.

(b) General Grant Grove section of Kings Canyon National Park to Kings Canyon National Park boundary near Cedar Grove.

Route 190 from Route 65 near Porterville to Route 127 near Death Valley Junction.

Route 266 from the Nevada state line easterly of Oasis to Route 168 at Oasis.

SEC. 8. Section 531 of the Streets and Highways Code is amended to read:

531. Route 231 is from Route 5 at Route 133 to Route 91.

SEC. 9. Section 561 is added to the Streets and Highways Code, to read:

561. Route 261 is from Route 5 near the border of the Cities of Tustin and Irvine to Route 231.

SEC. 10. Section 731 of the Streets and Highways Code is amended to read:

731. Any vehicle or structure parked or placed wholly or partly within any state highway, for the purpose of selling the same or of selling therefrom or therein any article, service or thing, is a public nuisance and the department may immediately remove that vehicle or structure from within any highway.

Any person parking any vehicle or placing any structure wholly or partly within any highway for the purpose of selling that vehicle or structure, or of selling therefrom or therein, any article or thing, and any person selling, displaying for sale, or offering for sale any article or thing either in or from that vehicle or structure so parked or placed, and any person storing, servicing, repairing or otherwise working upon any vehicle, other than upon a vehicle which is temporarily disabled, is guilty of a misdemeanor.

The California Highway Patrol and all peace officers may enforce the provisions of this chapter and shall cooperate with the department to that end. Whenever any member of the California Highway Patrol or any peace officer removes a vehicle from a highway under the provisions of this section, then all of the provisions of Article 3 (commencing with Section 22850), Chapter

10, Division 11 of the Vehicle Code with reference to the removal of a vehicle from a highway shall be applicable.

This section does not prohibit a seller from taking orders or delivering any commodity from a vehicle on that part of any state highway immediately adjacent to the premises of the purchaser; prohibit an owner or operator of a vehicle, or a mechanic, from servicing, repairing or otherwise working upon any vehicle which is temporarily disabled in a manner and to an extent that it is impossible to avoid stopping that vehicle within the highway; or prohibit coin-operated public telephones and related telephone structures in park and ride lots, vista points, and truck inspection facilities within state highway rights-of-way for use by the general public.

SEC. 11. Section 2127 of the Streets and Highways Code is amended to read:

2127. (a) (1) Except in the case of a city or county which has made an election pursuant to paragraph (2) or (3) of this subdivision, in order to receive any allocation pursuant to Section 2126 or Section 7 of Chapter 1600 of the Statutes of 1985, the city or county, as the case may be, shall expend for the maintenance and reconstruction, as defined in subdivision (d) of Section 2126, of its local street and highway system during the fiscal year that it receives an allocation pursuant to Section 2126 or that Section 7 not less than its base year expenditure, excluding the allocation received pursuant to Section 2126 or that Section 7, or both, during the fiscal year.

(2) A city or county may elect to expend during the two fiscal years that it receives an allocation, a total amount which is not less than twice the amount of its base year expenditure.

(3) A city may elect to expend, during the two fiscal years that it receives an allocation and the following fiscal year, a total amount which is not less than three times the amount of its base year expenditure. This paragraph applies only to the Cities of Bakersfield, El Segundo, Novato, Oceanside, San Mateo, San Rafael, Santa Maria, Seal Beach, and Westminster. For the purposes of this paragraph, either actual expenditures or funds encumbered by contractual obligations in the 1987–88 fiscal year shall qualify as expenditures in the year after allocations are received.

(4) Any city, except the Cities of Bakersfield, El Segundo, Novato, San Rafael, and Santa Maria, or county making an election pursuant to paragraph (2) or (3) shall so notify the Controller by December 31, 1987, and a city or county which fails to do so shall be governed by paragraph (1).

(5) Any city or county with a population of 40,000 or less which makes an election pursuant to paragraph (2) or (3) and which expends funds pursuant to that election by October 30, 1988, shall be deemed to have notified the Controller pursuant to paragraph (4).

(6) This subdivision does not apply to a city or a county, including a city which filed a notice with the Controller pursuant to subdivision (g), with a population of 10,000 or less, as most recently determined

by the Department of Finance.

(b) The amount allocated to a city or a county, as the case may be, shall be expended by October 30, 1988.

(c) (1) For purposes of this section, "base year expenditure" means the amount that the city or county, as the case may be, expended for patching, overlay, and sealing, and reconstruction of its local street and highway system during the 1984–85 fiscal year, as reported to the Controller pursuant to Section 2151. Any city or county, with a population of 100,000 or less as of October 1, 1986, which filed a notice with the Controller pursuant to subdivision (g), may elect to have its "base year expenditure" determined on the basis of its 1983–84 fiscal year expenditures. A city or county making this election shall so notify the Controller by December 31, 1987, and the election shall not be available to a city or county which does not so notify the Controller.

(2) If the sum of the revenue received by a city or county during the fiscal year pursuant to Section 500 of Title 16, Section 104(b) (2) and (6) and Sections 125 and 144 of Title 23, and Chapter 68 (commencing with Section 5121) of Title 42 of the United States Code, and from the federal Community Block Grant Program, the federal Revenue Sharing Program, and transit assistance funds from the Transportation Planning and Development Account, which was expended for the maintenance and reconstruction of its local street and highway system during the 1984–85 fiscal year, as reported to the Controller pursuant to Section 2151, is more than the sum of funds it received from those sources during any fiscal year, the base year expenditure of the city or county, as the case may be, for the fiscal year shall be reduced by the difference between the sums. For purposes of this paragraph, "revenue received" means that percentage of the project expenditures or the maximum reimbursable amount of eligible project costs as agreed upon by the federal government and the local agency for those projects eligible under this paragraph.

(d) For each fiscal year during which an allocation was made pursuant to Section 2126 or Section 7 of Chapter 1600 of the Statutes of 1985, or both, the Controller shall audit the amount each county and city expended for the maintenance and reconstruction, as defined in subdivision (d) of Section 2126, of its local street and highway system during the fiscal year. For amounts allocated to counties and cities for expenditure by October 30, 1988, the audit shall be completed by October 30, 1990.

(e) (1) If the Controller determines pursuant to subdivision (d) that a county or city, for the fiscal year, expended for the maintenance and reconstruction of its local street and highway system less than the required amount determined pursuant to subdivision (a) or (b), its allocation pursuant to Section 2104 or 2107, as the case may be, shall be reduced during the next fiscal year by the amount that its expenditure is less than the required amount, but the amount of the reduction shall not exceed the amount allocated

to the city or county in each fiscal year that the city or county received funds pursuant to Section 2126 or Section 7 of Chapter 1600 of the Statutes of 1985.

(2) Paragraph (1) does not apply to a city or county during the fiscal year in which it returns to the Controller the allocation it received pursuant to Section 2126 or that Section 7, or both. The city or county shall return the allocation plus any accrued interest within 30 days after receipt of the allocation.

(f) Any funds withheld or returned as a result of subdivision (e) shall be reallocated to the other counties and cities whose expenditure is not less than its required amount pursuant to subdivision (b) or (c) of Section 2126, as the case may be.

(g) In the case of a city or county which on or before October 1, 1986, files with the Controller a written notice declaring the inability of the city or county to comply with the matching requirement of subdivision (a), the Controller shall postpone the penalty provisions of paragraph (1) of subdivision (e) and shall not reallocate the funds, as provided for by subdivision (f), until September 1, 1987. The notice to the Controller shall contain all of the following:

(1) The amount of 1984–85 base year matching requirements as determined by the Controller's audit.

(2) The amount the local entity will fall short of the base year matching requirement.

(3) The reasons why the city or county is unable to meet the base year matching requirement.

(4) The amounts expended by the local entity on patching, overlay, sealing, and reconstruction of its street and highway system in fiscal years 1981–82, 1982–83, and 1983–84.

The Controller shall, by November 1, 1986, transmit to the Chairpersons of the Senate and Assembly Transportation Committees and the Joint Legislative Budget Committee the information submitted by counties and cities in the written notices provided for in this subdivision.

CHAPTER 776

An act to add Section 5062 to the Fish and Game Code, relating to alligators.

[Approved by Governor October 9, 1991 Filed with Secretary of State October 10, 1991.]

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

SECTION 1. Section 5062 is added to the Fish and Game Code, to read:

5062. Notwithstanding any other provision of law, no permit shall be issued for the operation of a farm for alligators or any species of

the family crocodilidae if the animals are kept for the use and sale of the meat or hides. No permit for the operation of a farm for alligators or any species of the family crocodilidae shall be renewed if the animals are kept for the use and sale of the meat or hides.

CHAPTER 777

An act to add Section 12805.5 to the Government Code, relating to environmental quality.

[Approved by Governor October 9, 1991 Filed with Secretary of State October 10, 1991]

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

SECTION 1. Section 12805.5 is added to the Government Code, to read:

12805.5. (a) The Governor, utilizing the staff and resources of state agencies, shall transmit to the Legislature, not later than March 15 of each year, an environmental report designated as the "Environmental Report of the Governor" setting forth all of the following:

(1) A review of environmental developments during the preceding calendar year, including trends in air quality, water quality, solid waste, the generation and disposal of hazardous waste, population growth, the growth in number of vehicles, depletion of natural resources, and other indicators of environmental quality and pollution.

(2) Forecasts of trends in major indicators of environmental quality, resource depletion, and pollution.

(3) Insofar as possible within existing resources, an evaluation of the economic and human health costs of resource depletion, pollution, and changes in environmental quality.

(4) Additional material on the California environment that is pertinent and of interest, with historical analysis and future projections whenever possible.

(5) Summaries of state policies and actions that relate to environmental developments and trends.

(b) In conjunction with the environmental report, the Governor shall present an environmental message reviewing significant environmental achievements of the past year, outlining problem areas, and defining environmental policy, and shall make recommendations as may be appropriate for programs to decrease pollution, improve environmental quality, and protect natural resources.

CHAPTER 778

An act to amend Sections 20024.01, 20027, and 20607 of, and to repeal Section 20932.5 of, the Government Code, and to add Section 19286.4 to the Revenue and Taxation Code, relating to public retirement, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 9, 1991. Filed with Secretary of State October 10, 1991]

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

SECTION 1. Section 20024.01 of the Government Code is amended to read:

20024.01. For a state member, or for a local member who is an employee of a contracting agency which is subject to the provisions of this section, "final compensation" means the highest average annual compensation earnable by a member during the three consecutive years of employment immediately preceding the effective date of his or her retirement or the date of his or her last separation from state service if earlier or during any other period of three consecutive years during his or her membership in the system which he or she designates in his or her application for retirement, including any or all of the period or periods of (a) service required for qualification for membership, or (b) prior service which qualifies for credit under this system, if any, immediately preceding membership, or (c) time prior to entering state service at the compensation earnable by him or her in the position first held by him or her in such service, as may be necessary to complete three consecutive years. For the purposes of this section, periods of service separated by a period of retirement or breaks in service may be aggregated to constitute a period of three consecutive years, if the periods of service are consecutive except for such a period of retirement or breaks. If a break in service did not exceed six months in duration, time included in the break and compensation earnable during that time shall be included in computation of final compensation. If a break in service exceeded six months in duration, the first six months thereof and the compensation earnable during those six months shall be included in computation of final compensation, but time included in the break which is in excess of six months and the compensation earnable during that excess time shall be excluded in computation of final compensation.

On and after November 13, 1968, this section shall apply to all contracting agencies and to the employees of those agencies whether or not those agencies have previously elected to be subject to this section, except that this section shall not apply to an employee of a contracting agency which has not elected to be subject to this section whose death occurred or whose retirement was effective prior to

November 13, 1968.

SEC. 2. Section 20027 of the Government Code is amended to read:

20027. "Normal contributions" means contributions required to be paid by a member at the normal rates of contribution fixed by the law, by contract, or by contract amendment, but does not include additional contributions.

"Normal contributions" also includes contributions required to be paid by a member which are in fact paid on behalf of a member by an employer as defined in Section 20011.

SEC. 3. Section 20607 of the Government Code is amended to read:

20607. (a) The normal rate of contribution for state peace officer/firefighter members and for local safety members subject to Section 21252.02 shall be 8 percent of the compensation in excess of two hundred thirty-eight dollars ($238) per month paid those members.

(b) This subdivision shall apply only to a city with a population in excess of 300,000 in a county of the eighth class, as defined by Sections 28020 and 28029, as amended by Chapter 1204 of the Statutes of 1971, which, prior to June 30, 1991, amends its contract to provide for the transfer of all or part of the safety members of an existing local retirement system to this system. Subdivision (a) shall not apply to a contracting agency which so elects by amendment to its contract made in the manner prescribed for approval of contracts by express provision in the contract. If the election is so made, the normal rate of contribution for local safety members of that contracting agency subject to Section 21252.02 shall be 9 percent of compensation paid those members.

(c) Notwithstanding any other provision of this part, state member contributions on premium compensation for planned overtime paid at the "half-time" rate as part of the regular shift under the federal Fair Labor Standards Act (29 U.S.C. Sec. 201 et seq.) or the Memorandum of Understanding of State Bargaining Units 7 and 8 are waived for the period April 15, 1985, through June 30, 1988.

This subdivision applies to State Bargaining Units 7 and 8 and becomes effective only if the board approves a waiver of employer contributions on the same premium compensation for the same period of time. If this subdivision is approved by the board, benefits shall be calculated to include overtime paid at the one-half time rate.

SEC. 4. Section 20932.5 of the Government Code is repealed.

SEC. 5. Section 19286.4 is added to the Revenue and Taxation Code, to read:

19286.4. (a) Subject to the limitations of this section and federal law, the Franchise Tax Board may provide the Public Employees' Retirement System with the names and addresses or other identification or location information from income tax returns or other records required under this part, solely for the purposes of

disbursing unclaimed benefits pursuant to Chapter 9 (commencing with Section 21200) of Part 3 of Division 5 of Title 2 of the Government Code and distributing member statements on an annual basis.

(b) Neither the Public Employees' Retirement System, nor its agents, nor any of its current or former officers or employees, shall disclose or use any information obtained pursuant to this section except as provided in this section. Any disclosure not authorized by this section is a misdemeanor.

(c) The Franchise Tax Board may from time to time review the use of information provided to the Public Employees' Retirement System pursuant to this section and the Public Employees' Retirement System shall provide the Franchise Tax Board with access for that purpose. The reviews shall be limited to ensuring that the Public Employees' Retirement System uses the information provided by the Franchise Tax Board only in the manner specified in subdivision (a). The Franchise Tax Board shall report all findings to the Public Employees' Retirement System.

SEC. 6. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

SEC. 7. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order for the benefits of this act to be applicable upon the commencement of the 1991–92 fiscal year, this act must take effect immediately.

CHAPTER 779

An act to add and repeal Section 104.19 of the Streets and Highways Code, relating to highways.

[Approved by Governor October 9, 1991. Filed with Secretary of State October 10, 1991]

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

SECTION 1. Section 104.19 is added to the Streets and Highways Code, to read:

104.19. (a) The department shall reserve and designate all rights to the airspace immediately above Route 101, known as the Santa Ana Freeway, extending from Broadway on the west to Alameda Street on the east in the City of Los Angeles, for lease for the purpose of development of a cultural center as proposed by the entity known as West Coast Gateway. Consideration for the lease shall be the fair market value of the leased airspace. The airspace identified in this section shall remain designated for the specified purpose if payment is made by West Coast Gateway for the option to lease airspace which is created by this section, and if that payment is based on the fair market value of the option to lease the identified airspace.

(b) If the airspace described in subdivision (a) is leased for the purposes specified in that subdivision, all of the following shall apply:

(1) The department may review, and approve or disapprove, all plans, drawings, specifications, contracts, and other documents relating to the design and construction of the cultural center, and may require the plans, drawings, specifications, contracts, and other documents to be submitted to the United States Highway Administration, or any other federal, state, or local agency for review, as determined by the department.

(2) West Coast Gateway shall be responsible for securing, developing, or applying for all of the following:

(A) Environmental impact studies, reports, or other documents necessary to comply with state or federal laws.

(B) Clearances or permits required pursuant to the California Coastal Act (Div. 20 (commencing with Sec. 30000), P.R.C.).

(C) Zoning, development, or construction permits required by local agencies.

(3) The department may reserve, and except from the lease, a segment of the airspace described in subdivision (a), as determined by the department, for possible future expansion of Route 101.

(c) For purposes of this section, "West Coast Gateway" is a public benefit nonprofit corporation comprised of members appointed by the Mayor of Los Angeles to study and plan the development of a cultural center in the city.

(d) This section shall remain in effect only until January 1, 2000, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 2000, deletes or extends that date.

CHAPTER 780

An act to add Section 16208 to the Welfare and Institutions Code, relating to child welfare services, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 9, 1991 Filed with Secretary of State October 10, 1991.]

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

SECTION 1. Section 16208 is added to the Welfare and Institutions Code, to read:

16208. (a) The department, in consultation with the Child Welfare Training Advisory Board, shall contract with the University of California or the California State University system to develop a statewide protocol for telephone screening of emergency response referrals to protect children from abuse and neglect, to be called the Emergency Response Protocol. The department shall seek the advice of the California Children's Lobby in the development of this protocol.

(b) The department shall utilize available child welfare training funds in the development of the protocol.

(c) The department shall incorporate the protocol into the child welfare training program described in this article no later than February 15, 1992.

SEC. 2. The sum of three million eight hundred thousand dollars ($3,800,000) is appropriated from the General Fund to the State Department of Social Services.

(b) The State Department of Social Services shall allocate funds appropriated pursuant to subdivision (a), according to the method specified in subdivision (c), to the Los Angeles County Department of Children's Services.

(c) The state department shall allocate a percentage of those funds appropriated pursuant to subdivision (a) that is equal to the percentage of cases located by the County of Los Angeles, as determined by the State Department of Social Services, in its July 1991 welfare service compliance review.

(d) Any funds appropriated by subdivision (a) that are not allocated pursuant to subdivision (c) shall revert to the General Fund.

SEC. 3. The State Department of Social Services shall inform the Legislature of the development of the Emergency Response Protocol described in Section 16208 of the Welfare and Institutions Code, and report on additional steps necessary to improve telephone screening of emergency response referrals by January 15, 1992.

SEC. 4. The State Department of Social Services shall, no later than February 15, 1992, adopt emergency regulations pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division

3 of Title 2 of the Government Code, to implement subdivision (c) of Section 16208 of the Welfare and Institutions Code. The adoption of those regulations shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health, or safety. Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, emergency regulations adopted by the department in order to implement subdivision (c) of Section 16208 of the Welfare and Institutions Code shall not be subject to the review and approval of the Office of Administrative Law. These regulations shall become effective immediately upon filing with the Secretary of State.

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

The restoration of funds to the Child Welfare Services program pursuant to this act will prevent over 200,000 children from going unprotected. It will enable an additional 590 social workers to be available to protect children who are vulnerable to abuse and neglect.

CHAPTER 781

An act to add Section 44225.5 to the Education Code, relating to teacher credentialing basic skills tests.

[Approved by Governor October 9, 1991 Filed with Secretary of State October 10, 1991]

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

SECTION 1. The Legislature finds and declares that school districts in California have a continuing need to recruit able teachers, that credential requirements should represent high standards without inhibiting the recruitment of able teachers, and that teachers should be expected to demonstrate their competence as expeditiously as possible. The Legislature is concerned about the continuing impediment of the basic skills proficiency test for teachers recruited from other states, and concludes that there is a need for the Commission on Teacher Credentialing to examine the comparability of other states' basic skills proficiency tests to determine their equivalence with the California test, and to determine the possibility of substituting part or all of those tests for the California requirements.

SEC. 2. Section 44225.5 is added to the Education Code, to read:

44225.5. (a) The Commission on Teacher Credentialing shall conduct a study of the Pre-Professional Skills Test, or its successor, developed by the Educational Testing Service. The study shall be

conducted with the rigor used in validating the California Basic Education Skills Test pursuant to Section 44252. The commission shall conduct a study of appropriate standards for the issuance of teaching credentials to persons who have taken the Pre-Professional Skills Test, or its successor, and who have not received their teacher preparation in California. Those standards shall include, but shall not be limited to, the minimum acceptable score on the test.

(b) Upon completion of the study pursuant to subdivision (a), the commission shall adopt standards for the issuance of teaching credentials to persons who received a score equal to or exceeding the minimum acceptable score set by the commission.

(c) The commission shall submit a report to the Legislature on the results of the study conducted pursuant to subdivision (a), and the adoption of standards pursuant to subdivision (b), to the Legislature no later than March 1, 1993.

CHAPTER 782

An act to add and repeal Division 8.5 (commencing with Section 8900) of the Public Resources Code, relating to surveying, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 9, 1991 Filed with Secretary of State October 10, 1991]

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

SECTION 1. Division 8.5 (commencing with Section 8900) is added to the Public Resources Code, to read:

DIVISION 8.5. GEOGRAPHIC AND LAND INFORMATION SYSTEMS

8900. The Legislature hereby finds and declares all of the following:

(a) Property management, planning, risk assessments, and environmental decisionmaking at all levels of government and in the private sector rely heavily on geographic information and various mapping and surveying techniques.

(b) Many entities, both public and private, have similar needs and overlapping requirements for geographic information.

(c) Many local, state, and federal government agencies and private companies in California are now using computers to manage geographic information.

(d) There are many issues associated with the development, use, maintenance, and exchange of and access to computer-based geographic information.

8901. (a) There is hereby created a Geographic Information

Task Force that is to be convened by the Office of the Governor.

(b) The task force shall be composed of 13 members as follows:

(1) Director, Stephen P. Teale Data Center.

(2) Five representatives from diverse state agencies, departments, or commissions, including, but not limited to, the Office of Planning and Research, having expertise and experience with geographic information systems, appointed by the Governor.

(3) Two representatives of counties having expertise and experience with geographic information systems, one of whom shall be appointed by the Speaker of the Assembly and one by the Senate Committee on Rules, upon the recommendation of the County Supervisors Association of California.

(4) Two representatives of cities having expertise and experience with geographic information systems, one of whom shall be appointed by the Speaker of the Assembly and one by the Senate Committee on Rules, upon the recommendation of the League of California Cities.

(5) Chief of the Mapping Division, United States Geological Survey.

(6) A representative of the California Land Surveyors Association appointed by the Governor from five names recommended by the association.

(7) A representative of the California Council of Civil Engineers and Land Surveyors appointed by the Governor from five names recommended by the council.

(c) Additionally, the California Director of the Bureau of Land Management, the Regional Director of the United States Forest Service, and the Director of the Center for Ocean Analysis and Prediction of the National Oceanic and Atmospheric Administration shall serve as ex officio members of the task force.

(d) Staff support shall be provided to the task force by the Teale Data Center.

(e) The task force shall create and appoint members to technical advisory committees which shall assist the task force in developing its recommendations. The technical advisory committees shall include representatives of the public, private, and academic sectors and shall reflect varying responsibilities for the development and use of geographic and land information systems.

(f) The task force shall meet a minimum of four times prior to the submission of the report required pursuant to Section 8902. The task force shall terminate on December 1, 1992.

8902. The task force shall submit a report to the Governor and the appropriate committees of the Legislature by October 1, 1992. The report shall include, at a minimum, recommendations for the following:

(a) An organizational and institutional structure to foster the cost-effective development and exchange of geographic information.

(b) The roles and responsibilities of public agencies, private sector firms, and individuals involved in the development and use of

geographic information.

(c) Procedures for ensuring accuracy and quality of geographic information.

(d) Procedures for data sharing.

(e) Mechanisms for funding the development of geographic information.

(f) Development of a definition of geographic information systems, land information systems, and other applicable systems and their potential uses.

(g) Procedures to ensure the integrity of data developed by those professionals subject to licensing or registration requirements.

(h) Specific steps, including legislation, necessary to accomplish the above.

8903. This division shall remain in effect only until January 1, 1993, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1993, deletes or extends that date.

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

Because of rapid development of geographic information systems by state agencies and the need to better manage them and achieve more consistency, it is necessary that this act take effect immediately.

CHAPTER 783

An act relating to the California State World Trade Commission.

[Approved by Governor October 9, 1991 Filed with Secretary of State October 10, 1991.]

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

SECTION 1. (a) The California State World Trade Commission, as a function of its responsibility to engage in export promotion and international trade research, shall conduct a study, which shall not exceed one year in duration, to determine export and investment opportunities in sub-Saharan Africa, consistent with subdivision (i) of Section 15364.6 of the Government Code.

(b) As part of this study, the commission shall consider in which particular countries the greatest opportunities exist and shall further consider the relative merits of establishing a presence in the region.

(c) The commission shall prepare and deliver a report on its findings to the Governor and the Legislature.

CHAPTER 784

An act to amend Section 676.1 of the Insurance Code, relating to insurance.

[Approved by Governor October 9, 1991 Filed with Secretary of State October 10, 1991.]

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

SECTION 1. Section 676.1 of the Insurance Code is amended to read:

676.1. (a) The arbitrary cancellation of a policy of homeowners' insurance solely on the basis that the policyholder has a license to operate a family day care home at the insured location shall subject the insurer to administrative sanctions authorized by this code unless, there has been a material misrepresentation of fact, the risk has changed substantially since the policy was issued, there has been a nonpayment of premium, or the insurer no longer writes homeowners policies.

(b) The arbitrary refusal to renew a policy of homeowners' insurance solely on the basis that the policyholder has a license to operate a family day care home at the insured location shall subject the insurer to administrative sanctions authorized by this code unless, there has been a material misrepresentation of fact, the risk has changed substantially since the policy was issued, there has been a nonpayment of premium, or the insurer no longer writes homeowners' policies. For purposes of this subdivision, an insured's purchase of a policy of homeowner's insurance to cover a new, primary residence from the same insurer which insured his or her previous primary residence, provided that the insurer then underwrites homeowners' insurance in the geographic area containing the new residence, shall be deemed a renewal of the policy on the previous, primary residence.

(c) It shall be against public policy for a residential property insurance policy to provide coverage for liability for losses arising out of, or in connection with, the operation of a family day care home. This coverage shall only be provided by a separate endorsement or insurance policy for which premiums have been assessed and collected.

CHAPTER 785

An act to amend Sections 7028.7 and 7028.15 of the Business and Professions Code, relating to contractors, and making an appropriation therefor.

[Approved by Governor October 9, 1991. Filed with Secretary of State October 10, 1991.]

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

SECTION 1. Section 7028.7 of the Business and Professions Code is amended to read:

7028.7. If upon inspection or investigation, either upon complaint or otherwise, the registrar has probable cause to believe that a person is acting in the capacity of or engaging in the business of a contractor within this state without having a license in good standing to so act or engage, and the person is not otherwise exempted from this chapter, the registrar shall issue a citation to that person. Within 72 hours of receiving notice that a public entity is intending to award, or has awarded, a contract to an unlicensed contractor, the registrar shall give written notice to the public entity that a citation may be issued if a contract is awarded to an unlicensed contractor. If after receiving the written notice from the registrar the public entity has awarded or awards the contract to an unlicensed contractor the registrar may issue a citation to the responsible officer or employee of the public entity as specified in Section 7028.15. Each citation shall be in writing and shall describe with particularity the basis of the citation. Each citation shall contain an order of abatement and an assessment of a civil penalty in an amount not less than two hundred dollars ($200) nor more than four thousand five hundred dollars ($4,500). With the approval of the Contractors' State License Board the registrar shall prescribe procedures for the issuance of a citation under this section. The Contractors' State License Board shall adopt regulations covering the assessment of a civil penalty which shall give due consideration to the gravity of the violation, and any history of previous violations. The sanctions authorized under this section shall be separate from, and in addition to, all other remedies either civil or criminal.

SEC. 2. Section 7028.15 of the Business and Professions Code is amended to read:

7028.15. (a) It is a misdemeanor for any person to submit a bid to a public agency in order to engage in the business or act in the capacity of a contractor within this state without having a license therefor, except in any of the following cases:

(1) The person is particularly exempted from this chapter.

(2) The bid is submitted on a state project governed by Section 10164 of the Public Contract Code or on any local agency project governed by Section 20104 of the Public Contract Code.

(b) If a person has been previously convicted of the offense described in this section, the court shall impose a fine of 20 percent of the price of the contract under which the unlicensed person performed contracting work, or four thousand five hundred dollars ($4,500), whichever is greater, or imprisonment in the county jail for not less than 10 days nor more than six months, or both.

In the event the person performing the contracting work has agreed to furnish materials and labor on an hourly basis, "the price of the contract" for the purposes of this subdivision means the aggregate sum of the cost of materials and labor furnished and the cost of completing the work to be performed.

(c) This section shall not apply to a joint venture license, as required by Section 7029.1. However, at the time of making a bid as a joint venture, each person submitting the bid shall be subject to this section with respect to his or her individual licensure.

(d) This section shall not affect the right or ability of a licensed architect, land surveyor, or registered professional engineer to form joint ventures with licensed contractors to render services within the scope of their respective practices.

(e) Unless one of the foregoing exceptions applies, a bid submitted to a public agency by a contractor who is not licensed in accordance with this chapter shall be considered nonresponsive and shall be rejected by the public agency. Unless one of the foregoing exceptions applies, a local public agency shall, before awarding a contract or issuing a purchase order, verify that the contractor was properly licensed when the contractor submitted the bid. Notwithstanding any other provision of law, unless one of the foregoing exceptions applies, the registrar may issue a citation to any public officer or employee of a public entity who knowingly awards a contract or issues a purchase order to a contractor who is not licensed pursuant to this chapter. The amount of civil penalties, appeal, and finality of such citations shall be subject to Sections 7028.7 to 7028.13, inclusive. Any contract awarded to, or any purchase order issued to, a contractor who is not licensed pursuant to this chapter is void.

(f) Any compliance or noncompliance with subdivision (e) of this section, as added by Chapter 863 of the Statutes of 1989, shall not invalidate any contract or bid awarded by a public agency during which time that subdivision was in effect.

(g) A public employee or officer shall not be subject to a citation pursuant to this section if the public employee, officer, or employing agency made an inquiry to the board for the purposes of verifying the license status of any person or contractor and the board failed to respond to the inquiry within three business days. For purposes of this section, a telephone response by the board shall be deemed sufficient.

CHAPTER 786

An act to amend Section 17031.5 of, and to add Section 17061.7 to, the Health and Safety Code, relating to housing.

[Approved by Governor October 9, 1991 Filed with Secretary of State October 10, 1991.]

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

SECTION 1. Section 17031.5 of the Health and Safety Code is amended to read:

17031.5. (a) No person operating a labor camp shall terminate or modify a tenancy by increasing rent, decreasing services, threatening to bring or bringing an action to evict, refusing to renew a tenancy, or in any other way intimidating, threatening, restraining, coercing, blacklisting, or discharging an employee or tenant because of the tenant's exercise of any of the following acts:

(1) Complaining in good faith, orally or in writing, to the landlord or employer about tenantability or about any right provided by this part.

(2) Exercising any legal right with respect to the housing provided by this part.

(3) Complaining in good faith, orally or in writing, to any applicable enforcement agency about tenantability or about any right provided by this part.

(4) Bringing an action to enforce any rights provided for by this part or Chapter 2 (commencing with Section 1940) of Title 5 of Part 4 of Division 3 of the Civil Code.

(5) Bringing an action under Section 1942.5 of the Civil Code.

(b) The tenant shall have a defense of retaliation in any action for possession if the employer or landlord acted in violation of this section. If the employer or landlord acts to discharge an employee or tenant or to modify or terminate a tenancy within six months after the employee or tenant has exercised any of the acts enumerated in subdivision (a), there is a rebuttable presumption affecting the burden of proof that the employer's or landlord's action was retaliatory.

(c) No tenant shall have a defense of retaliation in an action for possession where tenantability is an issue of fact and the untenantable condition was caused by the deliberate or negligent act or omission of the tenant or a member of his or her family, or other persons on the premises with his or her consent.

SEC. 2. Section 17061.7 is added to the Health and Safety Code, to read:

17061.7. Any person found in contempt of a court order or injunction pursuant to Section 17060, or who is convicted pursuant to Section 17061, for a second or subsequent time within a five-year period after a prior finding of contempt, after a prior conviction, or

after the prior issuance of an injunction relating to the enforcement of this chapter, may be ordered by the court, on its own motion or pursuant to a trial by jury on that issue if that is requested by the defendant, to be placed in house confinement in the labor camp or any accommodation within the labor camp that is the subject of the court action. The defendant may also be ordered to pay the cost of having a police officer or guard stand guard outside the area in which the defendant has been confined under house confinement if it has been determined that the defendant is able to pay these costs.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 787

An act to add Sections 41865 and 41866 to the Health and Safety Code, relating to air pollution.

[Approved by Governor October 9, 1991 Filed with Secretary of State October 10, 1991.]

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

SECTION 1. Section 41865 is added to the Health and Safety Code, to read:

41865. (a) This section shall be known and may be cited as the Connelly-Areias-Chandler Rice Straw Burning Reduction Act of 1991.

(b) As used in this section:

(1) "Sacramento Valley Air Basin" means the area designated by the state board pursuant to Section 39606.

(2) "Air pollution control council" means the Sacramento Valley Basinwide Air Pollution Control Council authorized pursuant to Section 40900.

(3) "Conditional rice straw burning permit" means a permit to burn granted pursuant to subdivisions (f) and (h).

(4) "Allowable acres to be burned" means the number of acres which may be burned pursuant to subdivision (c).

(5) "Annual allocation" means the acres for which conditional rice straw burning permits may be issued each year pursuant to subdivisions (f) and (h).

(6) "Department" means the Department of Food and Agriculture.

(c) Notwithstanding Section 41850, rice straw burning in counties in the Sacramento Valley Air Basin shall be phased down beginning September 1, 1992. After September 1, 1992, the number of acres that may be burned between September 1 of each year and August 31 of the following year, inclusive, shall be the following percentage of the total number of acres planted prior to September 1 of each year:

(1) In 1992, 90 percent.
(2) In 1993, 80 percent.
(3) In 1994, 70 percent.
(4) In 1995, 60 percent.
(5) In 1996, 50 percent.
(6) In 1997, 38 percent.
(7) In 1998, 25 percent.
(8) In 1999, 25 percent.
(9) In 2000 and thereafter, the annual allocation prescribed in subdivision (i), subject to subdivisions (f) and (h).

(d) The number of allowable acres to be burned each day shall be determined by the state board and the air pollution control officers in the Sacramento Valley Air Basin and equitably allocated among rice growers in accordance with the annual agricultural burning plan adopted by the air pollution control council and approved by the state board.

(e) On or before September 1, 1999, the state board, in consultation with the department and the air pollution control council, shall adopt regulations consistent with the criteria provided in subdivisions (f) and (h). On or before September 1, 1996, an advisory group shall be established by the state board and the department to assist in the adoption of those regulations.

(f) Commencing September 1, 2000, the county air pollution control officers in the Sacramento Valley Air Basin may grant conditional rice straw burning permits once the county agricultural commissioner has determined that the applicant has met the conditions specified in subdivision (h). The county agricultural commissioner shall be responsible for all field inspections associated with the issuance of conditional rice straw burning permits. A conditional rice straw burning permit shall be valid for only one burn, per field, per year.

(g) The county agricultural commissioner may charge the applicant a fee not to exceed the costs incurred by the county agricultural commissioner in making the determination specified in subdivision (f). This subdivision shall remain in effect only until January 1, 2004, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 2004, deletes or extends that date.

(h) If the terms and conditions for issuing conditional rice straw burning permits specified in paragraphs (1) to (4), inclusive, are met, a conditional rice straw burning permit may be issued unless the

state board and the department have jointly determined, based upon an annual review process, that there are other economically and technically feasible alternative means of eliminating the disease that are not substantially more costly to the applicant. The terms and conditions for issuing the conditional rice straw burning permits are:

(1) The fields to be burned are specifically described.

(2) The applicant has not violated any provision of this section within the previous three years.

(3) During the growing season, the county agricultural commissioner has independently determined the significant presence of a pathogen in the field in an amount sufficient to constitute a rice disease such as stem rot.

(4) After the rice has been harvested, the county agricultural commissioner makes a finding that the existence of a pathogen during the growing season caused a significant, quantifiable reduction in yield.

(i) (1) The maximum annual allocation in the Sacramento Valley Air Basin shall be the lesser of:

(A) The total of 25 percent of each individual applicant's planted acres that year.

(B) A total of 125,000 acres planted in the Sacramento Valley Air Basin.

(2) Each grower shall be eligible to burn up to 25 percent of his or her planted acres, as determined by the air pollution control officers in the Sacramento Valley Air Basin and subject to the maximum annual allocation set forth in paragraph (1), if the grower has met the criteria for a conditional rice straw burning permit.

(3) The air pollution control council shall annually determine which is the lesser of subparagraphs (A) and (B) of paragraph (1), and shall determine the maximum percentage applicable to all growers subject to the conditions set forth in subdivisions (f) and (h).

(4) A grower who owns or operates 400 acres or less who has met the criteria for the issuance of a conditional rice straw burning permit may burn his or her entire acreage once every four years, provided that the maximum annual allocation in the Sacramento Valley is not exceeded.

(5) Nothing in this subdivision shall permit an applicant to transfer, sell, or trade his or her annual allocation to another applicant or individual.

(j) The state board and the department shall jointly determine if the allowable acres to be burned, as provided in subdivisions (c), (f), and (h), may be exceeded due to extraordinary circumstances, such as an act of God, which have an impact over a continuing duration, and which make alternatives other than burning unusable.

(k) "Administrative burning" is burning of vegetative materials along roads, in ditches, and on levies adjacent to or within a rice field. Administrative burning conducted in accordance with Section 41852 is not subject to this section.

(*l*) (1) On or before September 1, 1992, the state board and the

department shall jointly establish an advisory committee composed of 10 members to assist with the identification and implementation of alternatives to rice straw burning. Members of the committee shall be from the Sacramento Valley Air Basin, and the committee shall consist of two rice growers, two representatives from the environmental community, two health officials, two county supervisors or their designees, one member from the air pollution control council, and one member from the business community with expertise in market or product development. The committee shall meet at least annually. General Fund moneys shall not be used to support the committee.

(2) The committee shall develop a list of priority goals for the development of alternative uses of rice straw for the purpose of developing feasible and cost-effective alternatives to rice straw burning. These goals shall include, but not be limited to, research on alternatives, economic incentives to encourage alternative uses, and new product development.

(m) On or before September 1, 1995, the state board and the department shall jointly report to the Legislature on the progress of the phasedown of rice straw burning. This report shall include an economic and environmental assessment, the status of feasible and cost-effective alternatives to rice straw burning, recommendations from the advisory committee on the development of alternatives to rice straw burning, any recommended changes to this section, and other issues related to this section. This report shall be updated biennially and transmitted to the Legislature not later than September 1, 1997, 1999, and 2001, respectively. The state board shall have the authority to adjust the air pollution control district burn permit fees specified in subdivision (q) to pay for the preparation of the report and its updates. The districts shall collect and remit the adjustment to the state board, which shall deposit the fees in the Motor Vehicle Account in the State Transportation Fund. It shall be the goal of the state board and the department that the cost of the report and its updates shall not exceed fifty thousand dollars ($50,000).

(n) It is the intent of the Legislature that all feasible alternatives to rice straw burning be encouraged.

(o) This subdivision confirms that reductions in emissions from rice straw burning qualify for air quality offsets, in accordance with paragraphs (1) and (2).

(1) These credits shall meet the requirements specified in state law and district rules and regulations, and shall comply with applicable district banking rules established pursuant to Sections 40709 to 40713, inclusive. Districts are urged to establish banking systems in accordance with Sections 40709 to 40713, inclusive. The state board shall have the authority to adopt regulations to implement this subdivision, including, but not limited to, consideration of the seasonal and intermittent nature of rice straw burning emissions. In developing the regulations, the state board

shall consult with all concerned parties. However, emission reduction credits which would otherwise accrue from reductions in emissions from rice straw burning shall not be affected or negated by the phasedown of burning, as specified in subdivision (c).

(2) Reductions in emissions achieved in compliance with subdivision (c) which are banked or used as credits shall not be credited for purposes of attainment planning and progress towards the attainment of any state or national ambient air quality standard as required by state and federal law.

(p) (1) Any person who negligently or intentionally violates any provision of this article is guilty of a misdemeanor and is subject to a fine of not more than ten thousand dollars ($10,000) or imprisonment in the county jail for not more than nine months, or both. This subdivision applies only to agricultural burning in the Sacramento Valley Air Basin.

(2) Any person who negligently or intentionally violates any provision in this article is liable for a civil penalty of not more than ten thousand dollars ($10,000). This subdivision applies only to agricultural burning in the Sacramento Valley Air Basin.

(q) Districts in the Sacramento Valley Air Basin shall impose fees on growers to cover the cost of implementing this section pursuant to Section 42311.

SEC. 2. Section 41866 is added to the Health and Safety Code, to read:

41866. The Sacramento Valley Basinwide Air Pollution Control Council may impose, and may require that districts within the Sacramento Valley Air Basin collect, a fee not to exceed five dollars ($5) per permit, per year on each permit issued by a district within the Sacramento Valley Air Basin, for the purpose of administering all basinwide air pollution control efforts.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because certain costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

Moreover, no reimbursement shall be made from the State Mandates Claims Fund pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code for other costs mandated by the state pursuant to this act. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Part 7 (commencing with Section 17500) and any other provisions of law for those other costs.

Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 788

An act to amend Sections 94311 and 94316.1 of, to add Section 94311.1 to, the Education Code, and to amend Section 11126 of the Government Code, relating to private postsecondary education.

[Approved by Governor October 9, 1991. Filed with Secretary of State October 10, 1991.]

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

SECTION 1. Section 94311 of the Education Code is amended to read:

94311. No private postsecondary educational institution, except those offering degrees and approved under Section 94310, may offer education services or an education program, unless the institution or the branch or satellite campus at which these programs are offered, has been approved by the council as meeting the requirements of this section and, if regulated by an agency within the Department of Consumer Affairs, has obtained and retained the approval of that agency:

(a) If an institution is operating under the council's prior approval and the institution has applied for approval to operate for itself or a branch or satellite campus that is operating, the council shall not grant approval to operate until it has conducted a qualitative review and assessment of the operations of the institution in California, and determined that all of the following minimum standards have been satisfied:

(1) The quality and content of each course or program of instruction, training, or study may reasonably and adequately be expected to achieve the objective for which the course or program is offered. All courses offered by the institution shall meet the minimum standards prescribed by this subdivision. If an institution represents that a course or program leads to employment, the quality, content, and instruction of the course or program shall be sufficient to assure that students may acquire the necessary level of education, training, skill, and experience to obtain employment in the occupation or job title to which the course or program of instruction is represented to lead.

(2) There is in the institution adequate space, equipment, instructional material, and instructor personnel to provide training of the quality needed to attain the objective described in paragraph (1).

(3) Every instructor and administrator possess adequate academic, experiential, and professional qualifications to teach the course or to perform the duties that the person is assigned and satisfies all standards established by the council by regulation, and holds an applicable and valid certificate of authorization for service issued by the council in the specified competence area in which the

individual will serve. No person shall serve as an instructor or member of the administrative staff if that person has been convicted of, or has pled nolo contendere or guilty to, a crime involving the acquisition, use, or expenditure of federal or state funds, or who has been judicially or administratively determined to have committed any violation of this chapter or of any law involving state or federal funds.

(4) The institution maintains for at least five years written records of the student's previous education and training, where applicable.

(5) A copy of the course outline, description of the occupations or job titles, if any, to which the course of instruction is represented to lead, schedule of tuition, fees and other charges, refund policy, regulations pertaining to tardiness, absence, grading policy and rules of operation and conduct is given to students prior to enrollment.

(6) The institution maintains and enforces adequate standards relating to, and maintains records of, attendance, satisfactory academic progress, and student performance to achieve the objective described in paragraph (1).

(7) The institution complies with all local city, county, municipal, state, and federal regulations relative to the safety and health of all persons upon the premises such as fire, building, and sanitation codes. The council may require evidence of compliance.

(8) The institution does not exceed enrollment which the facilities and equipment of the institution can reasonably handle.

(9) The institution's officers, directors, and owners demonstrate financial and fiduciary responsibility, as prescribed by statute, or by regulations adopted by the council.

(10) The institution is in compliance with this chapter and has developed policies and procedures designed to ensure that compliance.

(11) No circumstances exist which are grounds for the revocation or suspension of an approval to operate.

(12) The institution complies with Article 2.5 (commencing with Section 94316) if that article is applicable.

(13) Application for approval shall be made in writing on forms prescribed by the council, which shall include, if applicable to the institution, a statement of whether the institution claims that it is exempt or that a course or other educational service it offers is exempt from Article 2.5 (commencing with Section 94316), and the information required by subdivision (f) of Section 94319.2.

(b) Within 90 days following the receipt of an application from an institution that is operating under the superintendent's prior authorization or approval or the council's prior approval, and prior to granting any approval, a representative of the council shall personally inspect the institution and verify the institution's compliance with the standards prescribed by this chapter. The onsite inspection shall include an inspection of the institution's facilities and records, interviews of administrators, faculty, and students, and an observation of class instruction, as determined to be appropriate by

the council. If the application is for approval to operate a branch or satellite campus that is in operation, the council shall inspect that branch or satellite campus as provided herein and may also inspect the institution operating the branch or satellite campus. The council may waive or modify the onsite inspection for an institution located outside of California or for an institution offering home study or correspondence courses. For the purposes of this section, "council's prior approval" includes the prior approval or authorization of the Superintendent of Public Instruction, if applicable.

(c) Within 90 days following the inspection described in subdivision (b) or any reasonable extension of time not to exceed 90 days, the council shall reach a decision on the merits and shall do one of the following:

(1) If the institution is in compliance with this chapter and has not operated within three years before the filing of the application in violation of the provisions of this chapter then in effect, the council may grant approval for a period not to exceed three years.

(2) If the institution is in compliance with this chapter, but has operated within three years before the filing of the application in violation of the provisions of this chapter then in effect, or if the council, in its discretion, determines that an unconditional grant of approval to operate is not in the public interest, the council may grant a conditional approval to operate subject to whatever restrictions the council deems appropriate. The council shall notify the institution of the restrictions, the bases for the restrictions, and the right to request a hearing to contest the restrictions.

(3) The council may deny the application if the institution does not comply with this chapter, including the minimum standards established in subdivision (a), or has operated within three years before the filing of the application in violation of the provisions of this chapter then in effect. If the application is denied, the council may, in its discretion, permit the institution to continue offering the course or courses of instruction to students already enrolled or may order the institution to cease all instruction and provide a refund of tuition and all other charges to students. The council shall notify the institution of the denial, the bases for the denial, and the right of the institution to request a hearing to contest the denial.

(d) (1) If an institution is not operating in California when it applies for approval to operate for itself or a branch or satellite campus, the institution shall file with its application an operational plan establishing that the institution will satisfy the minimum standards set forth in subdivision (a). The operational plan shall also include a detailed description of the institution's program for implementing the operational plan, including proposed procedures, financial resources, and the qualifications of owners, directors, officers, and administrators employed at the time of the application's filing. The council may request additional information to enable the council to determine whether the operational plan and its proposed implementation will satisfy these minimum standards.

(2) If the council determines that the operational plan satisfies the minimum standards described in subdivision (a), that the institution demonstrates that it will implement the plan, and that no ground for denial of the application exists, the council shall grant a temporary approval to operate, subject to any restrictions the council reasonably deems necessary to assure compliance with this chapter, pending a qualitative review and assessment as provided in subdivisions (a) and (b). The council shall inspect the institution, or branch or satellite campus if approval is sought for that campus, between 90 days and 180 days after operation has begun under the temporary approval to operate. Within 90 days following the council's inspection of the institution, the council shall act as provided in subdivision (c).

(e) If an institution that is operating in California applies for approval to operate a branch or satellite campus that has not operated in this state, the institution shall file an operational plan for the branch or satellite campus as described in subdivision (d). The council shall evaluate the branch or satellite campus as provided in subdivision (d). The council may also evaluate the institution as provided in subdivisions (a) and (b) before determining whether to grant to the institution temporary or final approval to operate the branch or satellite campus. If the institution or the branch or satellite campus does not meet the requirements of this chapter or if the institution has operated within three years before the filing of the application in violation of the provisions of this chapter then in effect, the council may deny the application for approval to operate the branch or satellite campus or may grant a conditional approval to operate the branch or satellite campus subject to whatever restrictions the superintendent deems appropriate. The provisions for notice and hearing described in paragraphs (2) and (3) of subdivision (c) shall apply.

(f) No institution shall offer a course or program of instruction, training, or study at a campus that had not offered the course or program at the time the institution applied for approval to operate that campus unless the council first approves the offering of the course or program after determining that it satisfies the minimum standards established in subdivision (a).

(g) All institutions operating in California on December 31, 1989, pursuant to the prior authority of subdivision (c) of former Section 94311, and which continued to operate under the requirements of this chapter on the operative date of this section, shall receive an approval status for a period not to exceed three years. On a specified date to be determined by the council on or before June 30, 1993, each institution granted an approval pursuant to this subdivision shall file a completed application for reapproval pursuant to this section. It is the intent of the Legislature that all private vocational institutions having a cumulative gross student loan default rate higher than 40 percent, as determined by the Student Aid Commission, shall be reviewed by the council on or before February 29, 1992, to determine

if these institutions are in compliance with the requirements of this chapter, and should be continued to be approved to offer educational programs in California. On or before March 15, 1992, the council shall report to the education policy and fiscal committees of the Legislature on the results of this review.

All institutions operating in California on December 31, 1990, pursuant to prior authority of subdivision (a) or (b) of former Section 94311, shall receive approval from the council for a period not to exceed three years. On or before June 30, 1994, the council shall work in cooperation with the appropriate state boards or agencies, and with the Federal Aviation Administration, to review each of these institutions to determine whether the institution is in compliance with the requirements of this chapter. It is the intent of the Legislature that the council develop a memorandum of understanding with each of the appropriate state boards or agencies and with the Federal Aviation Administration to delineate the responsibilities of each agency for the approval and monitoring of these private vocational institutions that were operating on December 31, 1990, under the prior authority of subdivisions (a) and (b) of former Section 94311. It is further the intent of the Legislature that these memorandums of understanding be introduced as legislation on or before February 1, 1994, for enactment as amendments to this act. It is the intent of the Legislature that all institutions having a cumulative gross student loan default rate above 40 percent, as determined by the Student Aid Commission, shall be reviewed by the state board and the council on or before February 29, 1992, to determine if these institutions are in compliance with the requirements of this chapter and should continue to be approved to offer educational programs in California.

All institutions operating in California on December 31, 1990, pursuant to the prior authority of subdivision (d) of former Section 94311, shall receive an approval for a period not to exceed three years. On a specified date to be determined by the council on or before December 31, 1993, each institution granted an approval pursuant to this subdivision, shall file a completed application for reapproval pursuant to this section.

(h) The council may, at its discretion, enter into an agreement for the regulation and oversight of nondegree granting private postsecondary institutions with the Federal Aviation Administration or with the state agency responsible for administering Article 1 (commencing with Section 1250) of Chapter 2 of Division 2 of the Health and Safety Code.

The council may enter into a regulatory agreement only when the appropriate agency can demonstrate that its standards and procedures for the review of institutions encompass the standards and consumer protection requirements prescribed by this chapter and that these standards and procedures are rigorously enforced.

Nothing in this section shall modify the existing authority of regulatory agencies within the Department of Consumer Affairs

relating to schools or programs.

(i) If at any time the council determines that an institution has deviated from the standards for approval, the council may, after giving the institution due notice and an opportunity to be heard, place the institution on probation for a specified period of time not to exceed 24 calendar months. During the period of probation, the institution shall be subject to special monitoring. The conditions for probation may include the required submission of periodic reports, as prescribed by the council, and special visits by authorized representatives of the council to determine progress toward total compliance. If at the end of the specified probationary period the institution has not taken steps to eliminate the causes for its probation to the satisfaction of the council, the council may revoke the institution's approval and provide notice to the institution to cease its operations.

(j) Approval by the council under Section 94311 shall be required for all colleges and universities offering courses to veterans through the veteran educational benefit program.

SEC. 2. Section 94311.1 is added to the Education Code, to read:

94311.1. (a) Each individual submitting an application for a certificate of authorization for service, pursuant to paragraph (3) of subdivision (a) of Section 94311, shall provide the council with the following information:

(1) A completed application as supplied by the council.

(2) Certified copies of educational transcripts, where applicable.

(3) Verified employment history.

(4) Other documentation of prior experience or education as may be required for verification.

(b) To be eligible for a certificate of authorization for service, the applicant shall fulfill the applicable requirements as follows:

(1) Instructors shall have all of the following qualifications:

(A) No record of any violations of this chapter.

(B) Verification that he or she possesses a combination of at least three years' experience and training or education in the occupation or job title category for which certification is sought.

(C) An instructor for a program which leads to a degree shall possess a degree of equal or higher level in the occupation for which certification is sought.

(2) Directors shall have both of the following qualifications:

(A) Five years' experience in an administrative position in a public or an approved private postsecondary school.

(B) No record of any violations of this chapter.

(3) Associate directors shall have both of the following qualifications:

(A) Two years' experience in an administrative or other responsible position in a public or state approved private postsecondary school.

(B) No record of any violations of this chapter.

(4) Financial aid directors shall have all of the following

qualifications:

(A) Five years' experience in an administrative position in the financial aid office of a public or approved private postsecondary school.

(B) Verification of completion within the previous two years of a training seminar or workshop certified by the California Student Aid Commission as providing up-to-date comprehensive information on financial aid programs and policies.

(C) No record of any violations of this chapter.

(D) Any other requirements the council deems necessary.

(5) Financial aid officers shall possess all of the following qualifications:

(A) Verification of completion within the previous two years of a training seminar or workshop certified by the California Student Aid Commission as providing up-to-date comprehensive information on financial aid programs and policies.

(B) No record of any violations of this chapter.

(C) Other requirements the council deems necessary.

(c) Each individual certified for authorization for service in the positions listed in subdivision (b) shall maintain at each private postsecondary educational institution where he or she is employed a validated transcript evidencing the successful completion of three continuing education units of recognized in-service training in their education, job title category, or employment field. These units may be completed through in-service training offered by accrediting associations, professional organizations, or council-approved programs.

(d) In addition to the requirements set forth in this section, the council may impose additional requirements by regulation.

SEC. 3. Section 94316.1 of the Education Code is amended to read:

94316.1. (a) This article applies to private postsecondary educational institutions except any of the following:

(1) Institutions that are incorporated and lawfully operate as nonprofit public benefit corporations pursuant to Part 2 (commencing with Section 5110), or as nonprofit religious corporations pursuant to Part 4 (commencing with Section 9110), of Division 2 of Title 1 of the Corporations Code and are not managed or administered by any entity for profit.

(2) Institutions that exclusively confer degrees upon the completion of a course of study of two or more academic years that are scheduled to be completed in not less than 18 months.

(3) Institutions that regularly confer degrees such as master or doctorate on students who have completed a graduate course of study of one or more years at a college or university.

(b) Except for Section 94316.3, and as otherwise provided in this section, this article does not apply to any educational service that meets any of the following conditions:

(1) The total charge for the educational service is seven hundred

fifty dollars ($750) or less.

(2) The total charge for the educational service is between seven hundred fifty dollars ($750) and one thousand five hundred dollars ($1,500), no part of the total charge is paid from the proceeds of a loan or grant under any federal or state program, and any of the following conditions are satisfied:

(A) The educational service consists of 250 hours or less of instruction and complies with subdivision (e).

(B) The educational service is not represented to, and does not, lead to, fit, or prepare a student for any employment in any occupation or job title, and the educational service complies with subdivisions (e) and (f).

(C) The educational service consists exclusively of home study or correspondence instruction. However, the home study or correspondence instruction shall comply with Sections 94316.6, 94316.14, 94316.22, 94318, and 94318.5.

(3) The educational service is approved by a governmental licensing authority to be offered as continuing education in subjects licensees are required to take as a condition of continued licensure.

(4) The educational service is offered exclusively to assist students to prepare for an examination for entrance into an undergraduate or graduate course of study at an accredited or approved college or university.

(5) The educational service is offered exclusively to assist students, who have obtained, or who are in the process of obtaining, degrees after completing an undergraduate or graduate course of study at a college or university, to prepare for an examination for licensure in a recognized profession, such as medicine, dentistry, accounting, or law.

(6) The educational service is three or more academic years, is scheduled to be completed in not less than 27 months, the institution does not admit students to the educational service more than four times during a year, and the institution confers a diploma upon the student's completion of the educational service.

(7) The educational service offers training exclusively in the fine arts or performing arts such as training to be an actor, dancer, author, vocal or instrumental musician, painter, sculptor, photographer, or other similar field as may be designated by the council.

(8) The educational service is more than 30 months in length, and the total charge for the educational service is payable by the student in equal monthly installments over the entire length of the course, and the institution does not receive, nor obligate the student to pay, an advance payment for more than one month.

(9) The educational service is offered pursuant to a contract between the institution and a community college, a high school, or an employer who has the responsibility for applicable costs, and the students are not required to pay, or are not liable to pay, any part of the total charge for the educational service.

(c) The exceptions established in paragraphs (1) and (2) of

subdivision (b) do not apply if the educational service is part of a course of instruction offered to a student and the total charge or the total number of hours of instruction for the course exceeds the amount specified in the exception claimed by the institution.

(d) Beginning July 1, 1996, and at the end of each five-year period thereafter, the council shall increase or decrease the dollar amounts specified in paragraphs (1) and (2) of subdivision (b) by the cumulative change in the California Consumer Price Index, as compiled and reported by the Department of Industrial Relations, in the preceding five calendar years. The adjustment shall be rounded to the nearest hundred dollar amount. The council shall publish the adjustment in the California Register and shall inform any person, upon request, of any adjustment.

(e) An institution offering educational services described in subparagraph (A) or (B) of paragraph (2) of subdivision (b) shall not receive, and shall not obligate the student for, more than one-half of the total charge in advance of the student's beginning the educational service and the balance of the total charge before the chronological midpoint of the educational service.

(f) An institution offering educational services described in subparagraph (B) of paragraph (2) of subdivision (b) shall disclose all of the following to a prospective student:

(1) The educational service is not offered to lead to any employment in any occupational or job title.

(2) Federally guaranteed student loans or grants are not available.

(3) The institution does not offer job placement assistance.

The disclosure shall be made clearly and conspicuously in every solicitation. The disclosure shall also be made orally and in writing, in the manner described in subdivision (b) of Section 94319, before the prospective student pays or is obligated to pay for any educational services.

(g) It is the intent of the Legislature that if any exception provided in paragraph (2) of subdivision (b) is declared by a court to be invalid for any reason, all of the provisions of this article shall apply to the institutions that would otherwise be subject to that exception.

(h) This article also applies to schools subject to Section 94319.13, except as provided in that section.

(i) Section 94312 does not apply to institutions subject to this article. In the event of a conflict between any other provision of this chapter and this article, this article applies.

SEC. 4. Section 11126 of the Government Code is amended to read:

11126. (a) Nothing in this article shall be construed to prevent a state body from holding closed sessions during a regular or special meeting to consider the appointment, employment, or dismissal of a public employee or to hear complaints or charges brought against that employee by another person or employee unless the employee requests a public hearing. As a condition to holding a closed session

on the complaints or charges to consider disciplinary action or to consider dismissal, the employee shall be given written notice of his or her right to have a public hearing, rather than a closed session, which notice shall be delivered to the employee personally or by mail at least 24 hours before the time for holding a regular or special meeting. If notice is not given, any disciplinary or other action taken against any employee at the closed session shall be null and void. The state body also may exclude from any public or closed session, during the examination of a witness, any or all other witnesses in the matter being investigated by the state body. Following the public hearing or closed session, the body may deliberate on the decision to be reached in a closed session.

For the purposes of this section, "employee" shall not include any person who is elected to, or appointed to a public office by, any state body. However, officers of the California State University who receive compensation for their services, other than per diem and ordinary and necessary expenses, shall, when engaged in that capacity, be considered employees.

(b) Nothing in this article shall be construed to prevent state bodies which administer the licensing of persons engaging in businesses or professions from holding closed sessions to prepare, approve, grade, or administer examinations.

(c) Nothing in this article shall be construed to prevent an advisory body of a state body which administers the licensing of persons engaged in businesses or professions from conducting a closed session to discuss matters which the advisory body has found would constitute an unwarranted invasion of the privacy of an individual licensee or applicant if discussed in an open meeting, provided the advisory body does not include a quorum of the members of the state body it advises. Those matters may include review of an applicant's qualifications for licensure and an inquiry specifically related to the state body's enforcement program concerning an individual licensee or applicant where the inquiry occurs prior to the filing of a civil, criminal, or administrative disciplinary action against the licensee or applicant by the state body.

(d) Nothing in this article shall be construed to prohibit a state body from holding a closed session to deliberate on a decision to be reached based upon evidence introduced in a proceeding required to be conducted pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 or similar provisions of law.

(e) Nothing in this article shall be construed to prevent any state body from holding a closed session to consider matters affecting the national security.

(f) Nothing in this article shall be construed to grant a right to enter any correctional institution or the grounds of a correctional institution where that right is not otherwise granted by law, nor shall anything in this article be construed to prevent a state body from holding a closed session when considering and acting upon the determination of a term, parole, or release of any individual or other

disposition of an individual case, or if public disclosure of the subjects under discussion or consideration is expressly prohibited by statute.

(g) Nothing in this article shall be construed to prevent any closed session to consider the conferring of honorary degrees, or gifts, donations, and bequests which the donor or proposed donor has requested in writing to be kept confidential.

(h) Nothing in this article shall be construed to prevent the Alcoholic Beverage Control Appeals Board from holding a closed session for the purpose of holding a deliberative conference as provided in Section 11125.

(i) Nothing in this article shall be construed to prevent a state body from holding closed sessions with its negotiator prior to the purchase, sale, exchange, or lease of real property by or for the state body to give instructions to its negotiator regarding the price and terms of payment for the purchase, sale, exchange, or lease.

However, prior to the closed session, the state body shall hold an open and public session in which it identifies the real property or real properties which the negotiations may concern and the person or persons with whom its negotiator may negotiate.

For purposes of this subdivision, the negotiator may be a member of the state body.

For purposes of this subdivision, "lease" includes renewal or renegotiation of a lease.

Nothing in this subdivision shall preclude a state body from holding a closed session for discussions regarding eminent domain proceedings pursuant to subdivision (q).

(j) (1) Nothing in this article shall be construed to prevent the California Postsecondary Education Commission from holding closed sessions to consider matters pertaining to the appointment or termination of the Director of the California Postsecondary Education Commission.

(2) Nothing in this article shall be construed to prevent the Council for Private Postsecondary and Vocational Education from holding closed sessions to consider matters pertaining to the appointment or termination of the Executive Director of the Council for Private Postsecondary and Vocational Education.

(k) Nothing in this article shall be construed to prevent the Franchise Tax Board from holding closed sessions for the purpose of discussion of confidential tax returns or data the public disclosure of which is prohibited by law, or from considering matters pertaining to the appointment or removal of the executive officer of the Franchise Tax Board.

(*l*) Nothing in this article shall be construed to prevent the Board of Corrections from holding closed sessions when considering reports of crime conditions under Section 6027 of the Penal Code.

(m) Nothing in this article shall be construed to prevent the State Air Resources Board from holding closed sessions when considering the proprietary specifications and performance data of manufacturers.

(n) Nothing in this article shall be construed to prevent a state body which invests retirement, pension, or endowment funds from holding closed sessions when considering investment decisions. For purposes of consideration of shareholder voting on corporate stocks held by the state body, closed sessions for the purposes of voting may be held only with respect to election of corporate directors, election of independent auditors, and other financial issues which could have a material effect on the net income of the corporation. For the purpose of real property investment decisions which may be considered in a closed session pursuant to this subdivision, a state body shall also be exempt from the provision of subdivision (i) relating to the identification of real properties prior to the closed session.

(o) Nothing in this article shall be construed to prevent a state body, or boards, commissions, administrative officers, or other representatives that may properly be designated by law or by a state body, from holding closed sessions with its representatives in discharging its responsibilities under Chapter 10 (commencing with Section 3500) of Division 4 of Title 1 as the sessions relate to salaries, salary schedules, or compensation paid in the form of fringe benefits. For the purposes enumerated in the preceding sentence, a state body may also meet with a state conciliator who has intervened in the proceedings.

(p) Notwithstanding any other provision of law, any meeting of the Public Utilities Commission at which the rates of entities under the commission's jurisdiction are changed shall be open and public.

Nothing in this article shall be construed to prevent the Public Utilities Commission from holding closed sessions to deliberate on the institution of proceedings, or disciplinary actions against regulated utilities.

(q) Nothing in this article shall be construed to prevent a state body, based on the advice of its legal counsel, from holding a closed session to confer with, or receive advice from, its legal counsel regarding pending litigation when discussion in open session concerning those matters would prejudice the position of the state body in the litigation.

For purposes of this article, all expressions of the lawyer-client privilege other than those provided in this subdivision are hereby abrogated. This subdivision is the exclusive expression of the lawyer-client privilege for purposes of conducting closed-session meetings pursuant to this article. For purposes of this subdivision, litigation shall be considered pending when any of the following circumstances exist:

(1) An adjudicatory proceeding before a court, an administrative body exercising its adjudicatory authority, a hearing officer, or an arbitrator, to which the state body is a party, has been initiated formally.

(2) (A) A point has been reached where, in the opinion of the state body on the advice of its legal counsel, based on existing facts

and circumstances, there is a significant exposure to litigation against the state body; or

(B) Based on existing facts and circumstances, the state body is meeting only to decide whether a closed session is authorized pursuant to subparagraph (A).

(3) Based on existing facts and circumstances, the state body has decided to initiate or is deciding whether to initiate litigation.

The legal counsel of the state body shall prepare and submit to it a memorandum stating the specific reasons and legal authority for the closed session. If the closed session is pursuant to paragraph (1), the memorandum shall include the title of the litigation. If the closed session is pursuant to paragraph (2) or (3), the memorandum shall include the existing facts and circumstances on which it is based. The legal counsel shall submit the memorandum to the state body prior to the closed session, if feasible, and in any case no later than one week after the closed session. The memorandum shall be exempt from disclosure pursuant to Section 6254.25.

For purposes of this subdivision, "litigation" includes any adjudicatory proceeding, including eminent domain, before a court, administrative body exercising its adjudicatory authority, hearing officer, or arbitrator.

Disclosure of a memorandum required under this subdivision shall not be deemed as a waiver of the lawyer-client privilege, as provided for under Article 3 (commencing with Section 950) of Chapter 4 of Division 8 of the Evidence Code.

(r) Nothing in this article shall be construed to prevent a state body operating under a joint powers agreement for insurance pooling from holding a closed session to discuss a claim for the payment of tort liability or public liability losses incurred by the state body or any member agency under the joint powers agreement.

(s) Nothing in this article shall be construed to prevent the examining committee established by the State Board of Forestry, pursuant to Section 763 of the Public Resources Code, from conducting a closed session to consider disciplinary action against an individual professional forester prior to the filing of an accusation against the forester pursuant to Section 11503.

(t) Nothing in this article shall be construed to prevent an administrative committee established by the State Board of Accountancy pursuant to Section 5020 or 5020.3 of the Business and Professions Code from conducting a closed session to consider disciplinary action against an individual accountant prior to the filing of an accusation against the accountant pursuant to Section 11503. Nothing in this article shall be construed to prevent an examining committee established by the Board of Accountancy pursuant to Section 5023 of the Business and Professions Code from conducting a closed hearing to interview an individual applicant or accountant regarding the applicant's qualifications.

(u) Nothing in this article shall be construed to prevent a state body, as defined in Section 11121.2, from conducting a closed session

to consider any matter which properly could be considered in closed session by the state body whose authority it exercises.

(v) Nothing in this article shall be construed to prevent a state body, as defined in Section 11121.7, from conducting a closed session to consider any matter which properly could be considered in a closed session by the body defined as a state body pursuant to Section 11121, 11121.2, or 11121.5.

(w) Nothing in this article shall be construed to prevent a state body, as defined in Section 11121.8, from conducting a closed session to consider any matter which properly could be considered in a closed session by the state body it advises.

(x) Nothing in this article shall be construed to prevent the State Board of Equalization from holding closed sessions for either of the following:

(1) When considering matters pertaining to the appointment or removal of the executive secretary of the State Board of Equalization.

(2) For the purpose of hearing confidential taxpayer appeals or data, the public disclosure of which is prohibited by law.

(y) Nothing in this article shall be construed to prevent the California Earthquake Prediction Evaluation Council, or other body appointed to advise the Director of the Office of Emergency Services or the Governor pursuant to Section 8590 concerning matters relating to volcanic or earthquake predictions, from holding closed sessions when considering the evaluation of possible predictions.

(z) This article shall not prevent the Teachers' Retirement Board or the Board of Administration of the Public Employees' Retirement System from holding closed sessions when considering matters pertaining to the recruitment, appointment, employment, or removal of the chief executive officer or when considering matters pertaining to the recruitment or removal of the chief investment officer of the State Teachers' Retirement System or the Public Employees' Retirement System.

CHAPTER 789

An act to add Chapter 10.35 (commencing with Section 25914) to the Health and Safety Code, relating to contracts.

[Approved by Governor October 9, 1991 Filed with Secretary of State October 10, 1991]

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

SECTION 1. Chapter 10.35 (commencing with Section 25914) is added to the Health and Safety Code, to read:

CHAPTER 10.35. ASBESTOS AND HAZARDOUS SUBSTANCE REMOVAL CONTRACTS

25914. The Legislature hereby finds and declares that it is the public policy of the state to ensure that work performed on behalf of the public or private entity or person be done properly to safeguard the public health and safety when removing asbestos and hazardous substances.

25914.1. For purposes of this chapter, the following definitions shall apply:

(a) "Asbestos" has the same meaning as defined in Section 6501.7 of the Labor Code.

(b) "Asbestos-related work," is defined in Chapter 6 (commencing with Section 6500) of Part 1 of Division 5 of the Labor Code, including Section 6501.8 of the Labor Code, and involves 100-square feet or more of surface area of asbestos-containing material and is such that it requires that the contractor who performs the work must be certified in accordance with subdivision (a) of Section 7058.5 of the Business and Professions Code.

(c) "Hazardous substance removal" has the same meaning as used in Section 7058.7 of the Business and Professions Code.

25914.2. (a) All asbestos-related work and hazardous substance removal shall be performed pursuant to a contract separate from any other work to be performed, when the presence of asbestos or hazardous substances is not disclosed in the bid or contract documents.

(b) All asbestos-related and hazardous substance removal work which is disclosed in the bid or contract documents shall not require a separate contract from any other work to be performed.

(c) In the event the contractor encounters on the site materials he or she reasonably believes to be asbestos or a hazardous substance, and the asbestos or hazardous substance has not been rendered harmless, the contractor may continue work in unaffected areas reasonably believed safe, and shall immediately cease work on the area affected and report the condition to the owner, or the owner's representative, or architect in writing.

(d) With regard to a public entity, if an emergency condition arises, as defined in Section 10122 or 22035 of the Public Contract Code, then all asbestos-related and hazardous substance removal shall be contracted and performed pursuant to Section 10122 or 22035 of the Public Contract Code, respectively. Contractors performing the work shall have all registration and certificates required pursuant to the Labor Code and the Business and Professions Code.

25914.3. Notwithstanding any other provision of law, a contractor who is not certified pursuant to Section 7058.6 of the Business and Professions Code may bid on a project involving asbestos related work so long as the asbestos-related work is performed by a contractor who is registered pursuant to Section 6501.5 of the Labor Code and certified pursuant to Section 7058.6 of the Business and

Professions Code.

SEC. 2. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 790

An act to amend Sections 17031.8, 17037, 17050, 17056, 17061, and 17061.5 of the Health and Safety Code, relating to housing.

[Approved by Governor October 9, 1991. Filed with Secretary of State October 10, 1991.]

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

SECTION 1. Section 17031.8 of the Health and Safety Code is amended to read:

17031.8. (a) An agency which exercises the responsibility for the enforcement of this part pursuant to Section 17050 shall submit to the Department of Housing and Community Development the information specified in subdivision (c) by June 30 of each year regarding the previous calendar year.

(b) The Department of Housing and Community Development shall gather the information specified in subdivision (c) for all permittees for which it acts as the enforcement agency and include a summary of the information from the permittees and enforcement agencies in the annual report submitted pursuant to Section 50408 regarding housing programs administered by the department, and shall submit the information specified in subdivision (c) to the Legislative Analyst pursuant to subdivision (d) of Section 17056.

(c) The following information shall be provided for purposes of subdivisions (a) and (b):

(1) The number and location of labor camps.

(2) The number and location of labor camps found operating without a permit.

(3) The number and location of inactive labor camps and the number of occupants residing in the labor camp when it was most recently occupied.

(4) The number of preoccupancy inspections, occupancy

inspections, and reinspections performed.

(5) A schedule of permit fees charged and the total amount of fees collected, and the total amount in reinspection fees collected.

(6) The number and character of any complaints received during the time the housing has been operated as a labor camp.

(7) The number and character of violations of this part, building standards published in the State Building Standards Code relating to labor camps, and other regulations adopted pursuant to this part, or conditions of the permits.

(8) The number of staff hours dedicated to the implementation of the Employee Housing Act (Part 1 (commencing with Section 17000) of Division 13).

(9) The number and location of labor camps receiving an exemption pursuant to Section 17031, 17031.3, or 17033.

SEC. 2. Section 17037 of the Health and Safety Code is amended to read:

17037. (a) Every person, or the agent or officer thereof, constructing, operating, or maintaining a labor camp shall comply with the requirements of this part, with building standards published in the State Building Standards Code relating to labor camps, and with the other regulations adopted pursuant to this part.

(b) (1) Any person operating or maintaining a labor camp without first having obtained a permit to operate from the enforcement agency shall pay double the fees prescribed for the permit to operate the camp.

(2) Any person found for a second or subsequent time within a five-year period to be operating or maintaining a labor camp without first having obtained a permit to operate from the enforcement agency shall pay 10 times the fees prescribed for the permit to operate the camp. The two or more violations referenced in this paragraph may be with regard either to the same enforcement agency or to two or more different enforcement agencies.

SEC. 3. Section 17050 of the Health and Safety Code is amended to read:

17050. (a) Except as provided in Section 18930, the Department of Housing and Community Development may promulgate rules and regulations to interpret and make specific this part. When adopted, those rules and regulations shall apply to all parts of the state.

(b) Upon written notice to the Department of Housing and Community Development, any city, county, or city and county may assume the responsibility for the enforcement of this part, for the building standards published in the State Building Standards Code relating to labor camps, and for the other regulations adopted pursuant to this part following approval by the department for that assumption.

(c) The Department of Housing and Community Development shall adopt regulations which shall set forth the conditions for assumption and may include required qualifications of local enforcement agencies. When assumption is approved, the

department shall transfer the responsibility for enforcement to the city, county, or city and county, together with all records of labor camps within its jurisdiction.

(d) A city, county, or city and county may, by ordinance, establish a schedule of fees for the operation of labor camps not to exceed that which is established by the department.

(e) (1) In the event of nonenforcement of this part, of the building standards published in the State Building Standards Code relating to labor camps, or of the other rules and regulations adopted pursuant to this part, the department shall enforce this part, the building standards published in the State Building Standards Code relating to labor camps, and the rules and regulations adopted pursuant to this part in any city, county, or city and county after the department has given written notice to the governing body of the city, county, or city and county, setting forth in what respects the city, county, or city and county has failed to discharge its responsibility, and has failed to initiate corrective measures to carry out its responsibility within 30 days of the date of the notice.

(2) On or after January 1, 1987, in the event the local enforcement agency has failed to initiate adequate and reasonable corrective measures to carry out its responsibility, as determined by the department, within 30 days of the date of notice of one or more specific examples of nonenforcement, the department, at its option, may undertake investigation and enforcement of the alleged violations of this part within the local enforcement agency's jurisdiction, and the local enforcement agency shall be liable to the department and the Attorney General for the actual costs of the investigation and enforcement by these state agencies.

(f) The department shall conduct an annual evaluation of the enforcement of this part, of the building standards published in the State Building Standards Code relating to labor camps, and of the other regulations adopted pursuant to this part by each city, county, or city and county which has assumed responsibility for enforcement. The department shall submit a written summary of the evaluation conducted pursuant to this subdivision to the Legislative Analyst on or before October 1 of each year.

(g) Except as provided in Section 18945, the department shall be sole judge as to whether the local enforcement agency is properly enforcing the provisions. Except as provided in Section 18945, the local enforcement agency shall have the right to appeal the decision to the department.

(h) Any city, county, or city and county, upon written notice from the governing body to the department, may cancel its assumption of responsibility for the enforcement of these provisions. The department, upon receipt of that notice, shall assume the responsibility within 30 days.

(i) The enforcement agency may:

(1) Enter public or private properties to determine whether there exists any labor camp to which this part applies.

(2) Enter and inspect all labor camps wheresoever situated, and inspect all accommodations, equipment, or paraphernalia connected therewith.

(3) Enter and inspect the land adjacent to the labor camp to determine whether the sanitary and other requirements of this part, the building standards published in the State Building Standards Code relating to labor camps, and the other rules and regulations adopted pursuant to this part have been or are being complied with.

SEC. 4. Section 17056 of the Health and Safety Code is amended to read:

17056. (a) In every part of the state, notwithstanding assumption of responsibilities by local enforcement agencies pursuant to Section 17050, the department shall establish procedures and devote resources to locating and prosecuting the most serious violators of this part and those who refuse to apply for or obtain permits to operate pursuant to this part, as determined by the department.

(b) The department shall maximize the efforts of personnel implementing this part by seeking to use new resources and nontraditional means, by coordinating with state, local, and federal agencies and by training and coordinating with local health and building departments. The department shall schedule its activities pursuant to this subdivision in a manner so as to survey the entire state on or before July 1, 1989.

(c) All of the requirements of this part shall be performed by civil service employees of the department who, to the extent feasible, shall be bilingual in Spanish and English.

(d) The Legislative Analyst shall provide an annual report to the Legislature, as part of the report on the Governor's 1992–93 Budget, and in annual budget reports thereafter. This report shall describe in detail the implementation of this part. This report shall be based on the information collected by the department pursuant to Section 17031.8. This report shall also include the approximate level of personnel years allocated for the purposes of this section, the number of new permits to operate issued or number of prosecutions undertaken, all fines and civil penalties collected, and other relevant information. Each year, the department shall provide the information collected pursuant to Section 17031.8 for the Legislative Analyst to prepare this report. Each report also shall include proposed amendments to this part which would facilitate the provision and maintenance of housing consistent with the requirements of this part, and which would facilitate enforcement of this part.

SEC. 5. Section 17061 of the Health and Safety Code is amended to read:

17061. (a) Any person who violates, or causes another person to violate, any provision of this part is guilty of a misdemeanor, punishable by a fine of not more than one thousand dollars ($1,000), or imprisonment for not more than 60 days, or both, for each violation of this part, provided that the violation does not cause

personal injury to any person.

(b) Any person who violates, or causes another person to violate, any provision of this part, provided that the violation causes personal injury to any person, is punishable by imprisonment in the state prison for two, three, or four years, or in a county jail not exceeding one year, or by a fine not exceeding ten thousand dollars ($10,000), or by both fine and imprisonment for each violation causing personal injury. This subdivision shall not be construed to preclude, or in any way limit, the applicability of any other law in any criminal prosecution.

(c) Any person who willfully violates any provision of this part shall be liable for a civil penalty of not less than three hundred dollars ($300), nor more than one thousand dollars ($1,000), for each violation or for each day of a continuing violation. The enforcement agency, or any person or entity affected by the violation, may institute or maintain an action in the appropriate court to collect any civil penalty arising under this subdivision.

SEC. 6. Section 17061.5 of the Health and Safety Code is amended to read:

17061.5. (a) Any person who is convicted pursuant to Section 17061 for a second or subsequent time within a five-year period or is convicted pursuant to subdivision (d) for a first or subsequent time within a five-year period after issuance of an injunction enforcing this chapter shall be punishable by a fine not to exceed six thousand dollars ($6,000) or by imprisonment not exceeding six months, or both such fine and imprisonment.

(b) Any person found in contempt of a court order or injunction pursuant to Section 17060 within a five-year period from its issuance shall be subject to civil penalties not to exceed six thousand dollars ($6,000) or by imprisonment not exceeding six months, or both such civil penalty and imprisonment.

(c) (1) If an injunction enforcing this chapter is issued within a five-year period after a conviction pursuant to subdivision (a), a finding of contempt pursuant to subdivision (b), or a prior injunction enforcing this chapter, the injunction shall provide for a civil penalty not to exceed six thousand dollars ($6,000) and all costs of enforcement, including, but not limited to, investigative costs, inspection costs, enforcement costs, attorney's fees or costs, and all other costs of prosecution.

(2) The court may also order the owner not to claim any deduction with respect to state taxes for interest, taxes, expenses, depreciation, or amortization paid or incurred, with respect to the cited structure, in the taxable year of the initial order or notice. Within 90 days after issuing the order, the court shall mail to the Franchise Tax Board a written notice of its order prohibiting the owner from claiming deductions with respect to the cited structure, in lieu of the processing of a violation by the enforcement agency in accordance with Sections 17274 and 24436.5 of the Revenue and Taxation Code.

(3) The Franchise Tax Board shall examine the tax return of the owner of the cited structure for the taxable year of the initial order or notice issued pursuant to paragraph (2). Notwithstanding Sections 19282 and 26451 of the Revenue and Taxation Code, the Franchise Tax Board shall notify the issuing court regarding the owner's compliance with the court order prohibiting the claiming of deductions with respect to the cited structure.

(d) Any person found in contempt of a court order or injunction pursuant to Section 17060, or who is convicted pursuant to Section 17061, for a second or subsequent time within a five-year period after a prior finding of contempt, a prior conviction, or the prior issuance of an injunction relating to the enforcement of this chapter, where there are violations that are determined by the trier of fact to be so extensive and of such a nature that the immediate health and safety of residents or the public is endangered and where the extent and nature of the violations are due to the defendant's habitual neglect of customary maintenance and display a flagrant lack of concern for the health and safety of residents or the public, shall be punishable by a fine not exceeding six thousand dollars ($6,000) and by imprisonment for not less than six months, but not exceeding one year, if the trier of fact finds at least three serious violations of the following categories of violations are involved:

(1) Termination, extended interruption, or serious defects of gas, water, or electric utility systems, if the interruption or termination is not caused by the tenant's failure to pay gas, water, or electric bills.

(2) Serious defects or lack of adequate space and water heating.

(3) Serious rodent, vermin, or insect infestation.

(4) Severe deterioration, rendering significant portions of the structure unsafe or unsanitary.

(5) Inadequate numbers of garbage receptacles or service.

(6) Unsanitary conditions affecting a significant portion of the structure as a result of faulty plumbing or sewage disposal.

(e) The remedies provided in subdivisions (a) to (d), inclusive, for second or subsequent violations shall apply without regard to whether the violations involved the same or different properties, or the same or different locations within a property, owned or operated by the person committing the violation.

SEC. 7. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 791

An act to amend Section 94303 of the Education Code, relating to postsecondary education.

[Approved by Governor October 9, 1991. Filed with Secretary of State October 10, 1991.]

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

SECTION 1. Section 94303 of the Education Code is amended to read:

94303. (a) Articles 1.5 (commencing with Section 94304) and 2 (commencing with Section 94310) of this chapter, subdivision (c) of Section 94320, and Sections 94322, 94330, 94331, 94331.5, 94334, 94338, 94342, 94343, 94343.2, and 94343.5 do not apply to an institution that is accredited by one of the following:

(1) The Western Association of Schools and Colleges, if the institution meets either of the following requirements:

(A) The institution exclusively confers degrees upon the completion of a course of study of two or more years.

(B) The institution is incorporated and lawfully operates as a nonprofit public benefit corporation pursuant to Part 2 (commencing with Section 5110) of Division 2 of Title 1 of the Corporations Code and is not managed or administered by any entity for profit.

(2) Any nationally accredited agency recognized by the United States Department of Education, if the council has determined, subsequent to an onsite qualitative review and assessment of the institution conducted at least once every three years, as described in subdivision (d) of Section 94310, that the institution complies with all of the following:

(A) The institution meets the financial responsibility requirements set forth in subdivision (b) of Section 94311.4.

(B) The faculty of the institution meets the requirements set forth in paragraph (2) of subdivision (a) of Section 94310.

(C) The institution's average cohort default rate on guaranteed student loans for the three most recent years, as published by the United States Department of Education, does not exceed 10 percent.

(D) The institution has operated in this state for at least three years before seeking accreditation in accordance with this section.

(E) The institution submits to the council copies of the most recent IRS Form 990 and the Integrated Postsecondary Education Data System Report of the United States Department of Education.

(F) The institution pays fees in accordance with Section 94331, and subdivisions (a) and (i) of Section 94331.5.

(G) The institution exclusively confers degrees upon the completion of a course of study of two or more years.

(H) The institution is incorporated and lawfully operates as a

nonprofit public benefit corporation pursuant to Part 2 (commencing with Section 5110) of Division 2 of Title 1 of the Corporations Code and is not managed or administered by any entity for profit.

(b) Within 30 days of any action by any accrediting agency which establishes, reaffirms, or publicly sanctions the accreditation of a private institution operating in the state, the accrediting agency shall notify the council of that action, and provide a copy of any public statements regarding the reasons for sanctions.

CHAPTER 792

An act to add Part 1.6 (commencing with Section 439.900) to Division 1 of the Health and Safety Code, relating to health research.

[Approved by Governor October 9, 1991 Filed with Secretary of State October 10, 1991.]

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

SECTION 1. Part 1.6 (commencing with Section 439.900) is added to Division 1 of the Health and Safety Code, to read:

PART 1.6. HEALTH RESEARCH FAIRNESS

439.900. This act shall be known and may be cited as the Health Research Fairness Act.

439.901. The Legislature finds and declares all of the following:

(a) The National Institutes of Health (NIH), the nation's major source of funding for medical research conducted in the United States, spends approximately 13 percent of its budget for research on conditions and diseases that are primarily women's health issues. Although it is true that the great majority of the NIH research funds are expended for studies of diseases that affect both men and women, or for fundamental research that has significance for diseases affecting all segments of our population, women have not been adequately represented in research populations in major NIH-funded studies of diseases which affect both men and women.

(b) Today many medical treatments currently used on women are based on studies conducted entirely on men. For example, although cardiovascular illness is the number one cause of death and disability in American women, women have consistently been excluded from major research studies in this area.

(c) It is estimated that 175,000 American women will develop breast cancer, and 44,000 women will die from the disease this year. Currently, one in nine women born in the United States will develop breast cancer in her lifetime.

(d) Women constitute 11 percent of all reported AIDS cases.

Eighty percent of all HIV-infected women are women of color.

(e) Osteoporosis, a condition characterized by excessive loss of bone tissue, affects an estimated 24 million Americans and results annually in an estimated $10 billion in direct medical costs. The cost of this disease will continue to escalate as the population ages and the incidence of osteoporosis increases. If current trends continue, the cost of osteoporosis treatment could be as much as $62 billion by the year 2020.

(f) Eighty percent of individuals affected by osteoporosis are women. One-half of all women over age 45 years, and 90 percent of all women over age 75 years, suffer from osteoporosis.

(g) Nearly one million couples seek medical advice or treatment for infertility. In the last 20 years, the number of infertility-related visits to doctors has nearly quadrupled. The risk of infertility is one and one-half times greater for blacks than for whites.

(h) Despite these facts, women's health issues—which are defined as diseases or conditions that are unique to women, are more prevalent or more serious in women, or for which specific risk factors or interventions differ for women—have received insufficient attention both in terms of funding and research.

(i) The best way to treat women's health problems is to prevent them from occurring, or to catch them in their earliest stages when they are most treatable. Without research into the causes and cures of diseases affecting women, these diseases cannot be effectively treated.

(j) On August 24, 1990, the NIH published a revised, strengthened "NIH/ADHMA Policy Concerning Inclusion of Women in Study Populations." That policy clearly stated that adequate numbers of women must be included in NIH-funded clinical studies, in proportion to the prevalence of the condition under study, unless an appropriate justification is provided. The revised policy also states that NIH will not fund grants that do not comply with its provisions.

(k) The majority of biomedical research funded by, or based at, the University of California is fundamental research that investigates basic life processes and disease mechanisms, often at the cellular or molecular level, and that yields benefits for all segments of our population.

439.902. (a) On or before June 30, 1992, state agencies shall adopt, and it is the intent of the Legislature that the Regents of the University of California adopt, policies based on the publication "NIH/ADHMA Policy Concerning Inclusion of Women in Study Populations," so that women and members of minority groups are appropriately included as subjects of health research projects carried out by state agencies or University of California researchers. The review of research proposals funded by state agencies or the University of California should include consideration of the appropriateness of the composition of research populations.

(b) On or before September 30, 1992, state agencies and the University of California shall transmit to the Legislature copies of the

policies adopted pursuant to this section, along with copies of the specific procedures put in place to carry out those policies.

439.903. State agencies shall, and it is the intent of the Legislature that the University of California:

(a) Provide special opportunities for funding research projects devoted to diseases, disorders, or other health conditions of particular concern to women and minorities, or in health research areas in which women and minorities have been traditionally underrepresented.

(b) At the same time, ensure that funding will enable researchers to adapt to changing population distribution of diseases.

439.904. (a) State agencies and the University of California shall report, consistent with available data, on the extent to which state funds administered by those agencies and the University of California are used to support research on diseases, disorders, or other health conditions that meet one or more of the following criteria, as determined by the state agency or the University of California:

(1) Are unique to women or minorities, more prevalent in women or minorities, or more serious for women or minorities.

(2) For which the risk factors or interventions are different for women or minorities.

(b) On or before June 30, 1992, state agencies and the University of California shall adopt procedures for collecting and classifying data on the extent to which state-funded research projects address medical issues of particular concern to women and minorities. On and after June 30, 1993, information concerning the extent to which research supported by particular programs of state agencies and the University of California addresses medical issues of particular concern to women and minorities shall be incorporated into the appropriate periodic program reports required under existing law.

439.905. It is the intent of the Legislature to encourage research on the effectiveness of RU-486 (mifepristone) in treating breast and ovarian cancer, meningioma, endometriosis, Cushing's syndrome, osteoporosis, diabetes, and AIDS.

439.906. For purposes of this part, "state agency" has the same meaning as defined in Section 11000 of the Government Code.

CHAPTER 793

An act to amend Section 984 of the Unemployment Insurance Code, relating to disability insurance.

[Approved by Governor October 9, 1991. Filed with Secretary of State October 10, 1991.]

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

SECTION 1. Section 984 of the Unemployment Insurance Code is amended to read:

984. (a) (1) Each worker shall pay worker contributions at the rate determined by the director pursuant to this section with respect to wages, as defined by Sections 926, 927, and 985. On or before October 31 of each calendar year, the director shall prepare a statement, which shall be a public record, declaring the rate of worker contributions for the calendar year and shall notify promptly all employers of employees covered for disability insurance of the rate.

(2) Except as provided in paragraph (3), the rate of worker contributions for calendar year 1987 and for each subsequent calendar year shall be 1.45 times the amount disbursed from the Disability Fund during the 12-month period ending September 30 and immediately preceding the calendar year for which the rate is to be effective, less the amount in the Disability Fund on that September 30, with the resulting figure divided by total wages paid pursuant to Sections 926, 927, and 985 during the same 12-month period, and then rounded to the nearest one-tenth of 1 percent.

(3) The rate of worker contributions shall not exceed 1.2 percent or be less than 0.1 percent, except for calendar years 1992, 1993, and 1994. For calendar year 1992, the rate of worker contributions shall be set at 1.25 percent if on September 30, 1991, the ratio of the fund balance to total disbursements for the prior four consecutive calendar quarters falls below 45 percent. For calendar years 1993 and 1994, the rate of worker contributions shall not exceed 1.25 percent, unless on September 30 of the prior year, the ratio of the fund balance to total disbursements for the prior four consecutive calendar quarters falls below 30 percent, in which case the rate of worker contributions shall not exceed 1.3 percent. For calendar years 1993 and 1994, the rate of worker contributions shall be rounded to the nearest one-hundredth of 1 percent. The rate of worker contributions shall not decrease from the rate in the previous year by more than two-tenths of 1 percent.

(b) Worker contributions required under Sections 708 and 708.5 shall be at a rate determined by the director to reimburse the Disability Fund for unemployment compensation disability benefits paid and estimated to be paid to all employers and self-employed individuals covered by those sections. On or before November 30th

of each calendar year, the director shall prepare a statement, which shall be a public record, declaring the rate of contributions for the succeeding calendar year for all employers and self-employed individuals covered under Sections 708 and 708.5 and shall notify promptly the employers and self-employed individuals of the rate. The rate shall be determined by dividing the estimated benefits paid in the prior year by the product of the annual remuneration deemed to have been received under Sections 708 and 708.5 and the estimated number of persons who were covered at any time in the prior year. The resulting rate shall be rounded to the next higher one-hundredth percentage point. The rate may also be reduced or increased by a factor estimated to maintain as nearly as practicable a cumulative zero balance in the funds contributed pursuant to Sections 708 and 708.5. Estimates made pursuant to this subdivision may be made on the basis of statistical sampling, or another method determined by the director.

(c) The director's action in determining a rate under this section shall not constitute an authorized regulation.

SEC. 1.5. Section 984 of the Unemployment Insurance Code is amended to read:

984. (a) (1) Each worker, including an individual covered under Section 2784, shall pay worker contributions at the rate determined by the director pursuant to this section with respect to wages, as defined by Sections 926, 927, and 985. On or before October 31 of each calendar year, the director shall prepare a statement, which shall be a public record, declaring the rate of worker contributions for the calendar year and shall notify promptly all employers of employees covered for disability insurance of the rate.

(2) Except as provided in paragraph (3), the rate of worker contributions for calendar year 1987 and for each subsequent calendar year shall be 1.45 times the amount disbursed from the Disability Fund during the 12-month period ending September 30 and immediately preceding the calendar year for which the rate is to be effective, less the amount in the Disability Fund on that September 30, with the resulting figure divided by total wages paid pursuant to Sections 926, 927, and 985 during the same 12-month period, and then rounded to the nearest one-tenth of 1 percent.

(3) The rate of worker contributions shall not exceed 1.2 percent or be less than 0.1 percent, except for calendar years 1992, 1993, and 1994. For calendar year 1992, the rate of worker contributions shall be set at 1.25 percent if on September 30, 1991, the ratio of the fund balance to total disbursements for the prior four consecutive calendar quarters falls below 45 percent. For calendar years 1993 and 1994, the rate of worker contributions shall not exceed 1.25 percent, unless on September 30 of the prior year, the ratio of the fund balance to total disbursements for the prior four consecutive calendar quarters falls below 30 percent, in which case the rate of worker contributions shall not exceed 1.3 percent. For calendar years 1993 and 1994, the rate of worker contributions shall be rounded to

the nearest one-hundredth of 1 percent. The rate of worker contributions shall not decrease from the rate in the previous year by more than two-tenths of 1 percent.

(b) Worker contributions required under Sections 708 and 708.5 shall be at a rate determined by the director to reimburse the Disability Fund for unemployment compensation disability benefits paid and estimated to be paid to all employers and self-employed individuals covered by those sections. On or before November 30th of each calendar year, the director shall prepare a statement, which shall be a public record, declaring the rate of contributions for the succeeding calendar year for all employers and self-employed individuals covered under Sections 708 and 708.5 and shall notify promptly the employers and self-employed individuals of the rate. The rate shall be determined by dividing the estimated benefits paid in the prior year by the product of the annual remuneration deemed to have been received under Sections 708 and 708.5 and the estimated number of persons who were covered at any time in the prior year. The resulting rate shall be rounded to the next higher one-hundredth percentage point. The rate may also be reduced or increased by a factor estimated to maintain as nearly as practicable a cumulative zero balance in the funds contributed pursuant to Sections 708 and 708.5. Estimates made pursuant to this subdivision may be made on the basis of statistical sampling, or another method determined by the director.

(c) The director's action in determining a rate under this section shall not constitute an authorized regulation.

SEC. 2. A study of the worker contribution rate formula and other factors influencing the revenue and cost to the Disability Fund shall be prepared by the Director of Employment Development and completed and submitted to the Legislature on or before December 31, 1993.

SEC. 3. Section 1.5 of this bill incorporates amendments to Section 984 of the Unemployment Insurance Code proposed by both this bill and AB 248. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1992, (2) each bill amends Section 984 of the Unemployment Insurance Code, and (3) this bill is enacted after AB 248, in which case Section 1 of this bill shall not become operative.

CHAPTER 794

An act to amend Sections 11346.53, 11349.1, 11349.3, and 11350 of the Government Code, and to amend Section 40727 of, and to add Section 40728.5 to, the Health and Safety Code, relating to regulations.

[Approved by Governor October 9, 1991 Filed with Secretary of State October 10, 1991.]

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

SECTION 1. The Legislature finds and declares the following:

(a) According to the United States Small Business Administration, small businesses account for more than 50 percent of total private sector employment in the state, excluding sole proprietorships.

(b) According to the California Association of Independent Business, California has approximately two million small business enterprises accounting for 75 percent of the gross state product.

(c) According to the Department of Commerce 1990 Manufacturers' Survey, 57 percent of the 642 manufacturing companies included in the survey have seriously considered relocating from the state or region or restricting expansion due to regulatory issues.

(d) The preservation and well-being of small businesses generally and individually are essential to the public interest in ensuring the availability of goods and services and full employment and the future growth and prosperity of the state's economy.

SEC. 2. It is the intent of the Legislature in enacting this act to do all of the following:

(a) Prevent unnecessary or unreasonable regulations and reporting, recordkeeping, and compliance requirements affecting both small businesses generally and individual parties.

(b) Prevent unnecessary or unreasonable hardship to small businesses and individual parties.

(c) Require state agencies in the proposed adoption or amendment of administrative regulations to assess the economic impact of the regulations on small business enterprises in the state during the processes of enactment, adoption, administration, and enforcement.

(d) Require state agencies to provide evidence in the record to substantiate a determination that a rule or regulation shall have no adverse economic impact on small business.

(e) Require all air districts with populations of 250,000 or more, when proposing to adopt, amend, or repeal a rule or regulation, to perform an assessment, to the extent data are available, of the socioeconomic impacts of the adoption, amendment, or repeal of the rule or regulation.

SEC. 3. Section 11346.53 of the Government Code is amended to

read:

11346.53. (a) (1) State agencies proposing to adopt or amend any administrative regulation shall assess the potential for adverse economic impact on California small business enterprises and individuals, avoiding the imposition of unnecessary or unreasonable regulations or reporting, recordkeeping, or compliance requirements. For purposes of this paragraph, assessing the potential for adverse economic impact shall require agencies, when adopting new regulations or reviewing or amending existing regulations, to adhere to the following requirements, to the extent that these requirements do not conflict with other state or federal laws:

(A) The regulations shall be based on adequate information concerning the need for, and consequences of, proposed governmental action.

(B) The state agency, prior to submitting regulations to the Office of Administrative Law, shall consider the impact on small business when initiating, processing, and adopting regulations with consideration of industries affected.

It is not the intent of this section to impose additional criteria on agencies, above that which exists in current law, in assessing adverse economic impact on California small business enterprises, but only to assure that the assessment is made early in the process of initiation and development of proposed regulations or amendments to regulations.

(2) If a state agency, in proposing to adopt or amend any administrative regulation, determines that the action may have a significant adverse economic impact on small business, it shall include the following information in the notice of proposed action:

(A) Identification of the types of small businesses that would be affected.

(B) A description of the projected reporting, recordkeeping, and other compliance requirements that would result from the proposed action.

(C) The following statement: "The (name of agency) finds that the (adoption/amendment) of this regulation may have a significant adverse economic impact on small businesses. The (name of agency) (has/has not) considered proposed alternatives that would lessen any adverse economic impact on small business and invites you to submit proposals. Submissions may include the following considerations:

(i) The establishment of differing compliance or reporting requirements or timetables which take into account the resources available to small businesses.

(ii) Consolidation or simplification of compliance and reporting requirements for small businesses.

(iii) The use of performance standards rather than prescriptive standards.

(iv) Exemption or partial exemption from the regulatory requirements for small businesses.

(b) The state agency proposing to adopt or amend any regulation shall refer in the notice to any studies or relevant data which were relied upon in making the determination that the regulation has no adverse impact.

(c) If a state agency, in adopting or amending any administrative regulation, determines that the action will not have a significant adverse economic impact on small business, it shall make a declaration to that effect in the notice of proposed action. In making this finding, the agency shall provide, in the record, facts, evidence, documents or testimony, or other evidence upon which the agency relies to support that finding.

(d) An agency's determination and declaration that a proposed regulation may have or will not have a significant, adverse impact on small businesses shall not be grounds for the office to refuse to publish the notice of proposed action.

(e) A state agency shall also include in the notice of proposed action a statement of the potential cost impact of the proposed action on private persons or businesses directly affected, other than small businesses as defined in subdivision (e) of Section 11342, as considered by the agency during the regulatory development process. If the cost impact of the action is expected to be insignificant, or was not considered in the development process, the agency shall so indicate.

For purposes of this subdivision "cost impact" means the reasonable range of costs, or a description of the type and extent of costs, direct or indirect, that a representative private person or business necessarily incurs in reasonable compliance with the proposed action.

(f) No administrative regulation which requires a report shall apply to small businesses, as defined in subdivision (e) of Section 11342, unless the state agency adopting the regulation makes a finding that it is necessary for the health, safety, or welfare of the people of the state that the regulation apply to small businesses.

This subdivision applies only to administrative regulations adopted on or after January 1, 1988.

SEC. 4. Section 11349.1 of the Government Code is amended to read:

11349.1. (a) The office shall review all regulations adopted pursuant to the procedure specified in Article 5 (commencing with Section 11346) of Chapter 3.5 and submitted to it for publication in the California Regulatory Code Supplement and for transmittal to the Secretary of State and make determinations using all of the following standards:

(1) Necessity.
(2) Authority.
(3) Clarity.
(4) Consistency.
(5) Reference.
(6) Nonduplication.

In reviewing regulations pursuant to this section, the office shall restrict its review to the regulation and the record of the rulemaking proceeding. The office shall approve the regulation or order of repeal if it complies with the standards set forth in this section and with the provisions of this chapter.

(b) In reviewing proposed regulations for the criteria in subdivision (a) of Section 11349.1, the office may consider the clarity of the proposed regulation in the context of related regulations already in existence.

(c) The office shall adopt regulations governing the procedures it uses in reviewing regulations submitted to it. The regulations shall provide for an orderly review and shall specify the methods, standards, presumptions, and principles the office uses, and the limitations it observes, in reviewing regulations to establish compliance with the standards specified in subdivision (a). The regulations adopted by the office shall ensure that it does not substitute its judgment for that of the rulemaking agency as expressed in the substantive content of adopted regulations.

(d) The office shall return any regulation subject to this chapter to the adopting agency if any of the following occur:

(1) The adopting agency has not prepared the estimate required by paragraph (6) of subdivision (a) of Section 11346.5 and has not included the data used and calculations made and the summary report of the estimate in the file of the rulemaking.

(2) The agency has not complied with Section 11346.53.

(3) The adopting agency has prepared the estimate required by paragraph (6) of subdivision (a) of Section 11346.5, the estimate indicates that the regulation will result in a cost to local agencies or school districts that is required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4, and the adopting agency fails to do any of the following:

(A) Cite an item in the Budget Act for the fiscal year in which the regulation will go into effect as the source from which the Controller may pay the claims of local agencies or school districts.

(B) Cite an accompanying bill appropriating funds as the source from which the Controller may pay the claims of local agencies or school districts.

(C) Attach a letter or other documentation from the Department of Finance which states that the Department of Finance has approved a request by the agency that funds be included in the Budget Bill for the next following fiscal year to reimburse local agencies or school districts for the costs mandated by the regulation.

(D) Attach a letter or other documentation from the Department of Finance which states that the Department of Finance has authorized the augmentation of the amount available for expenditure under the agency's appropriation in the Budget Act which is for reimbursement pursuant to Part 7 (commencing with Section 17500) of Division 4 to local agencies or school districts from the unencumbered balances of other appropriations in the Budget

Act and that this augmentation is sufficient to reimburse local agencies or school districts for their costs mandated by the regulation.

(4) The proposed regulation conflicts with existing statutes, court decisions, or other provisions of law.

(e) The office shall notify the Department of Finance of all regulations returned pursuant to subdivision (d).

(f) The office shall return a rulemaking file to the submitting agency if the file does not comply with subdivisions (a) and (b) of Section 11347.3. Within three state working days of the receipt of a rulemaking file, the office shall notify the submitting agency of any deficiency identified. If no notice of deficiency is mailed to the adopting agency within that time, a rulemaking file shall be deemed submitted as of the date of its original receipt by the office. A rulemaking file shall not be deemed submitted until each deficiency identified under this subdivision has been corrected.

The provisions of this subdivision shall not limit the review of regulations under this article, including, but not limited to, the conformity of rulemaking files to the provisions of subdivisions (a) and (b) of Section 11347.3.

SEC. 5. Section 11349.3 of the Government Code is amended to read:

11349.3. (a) The office shall either approve a regulation submitted to it for review and transmit it to the Secretary of State for filing or disapprove it within 30 working days after the regulation has been submitted to the office for review. If the office fails to act within 30 days, the regulation shall be deemed to have been approved and the office shall transmit it to the Secretary of State for filing.

(b) If the office disapproves a regulation, it shall return it to the adopting agency within the 30-day period specified in subdivision (a) accompanied by a notice specifying the reasons for disapproval. Within seven calendar days of the issuance of the notice, the office shall provide the adopting agency with a written decision detailing the reasons for disapproval. No regulation shall be disapproved except for failure to comply with the standards set forth in Section 11340.1 or 11349.1 or for failure to comply with this chapter.

(c) If an agency determines, on its own initiative, that a regulation submitted pursuant to subdivision (a) should be returned by the office prior to completion of the office's review, it may request the return of the regulation. All requests for the return of a regulation shall be memorialized in writing by the submitting agency no later than one week following the request. Any regulation returned pursuant to this subdivision shall be resubmitted to the office for review within the one-year period specified in subdivision (b) of Section 11346.4 or shall comply with Article 5 (commencing with Section 11346) prior to resubmission.

(d) The office shall not initiate the return of a regulation pursuant to subdivision (c) as an alternative to disapproval pursuant to

subdivision (b).

SEC. 6. Section 11350 of the Government Code is amended to read:

11350. (a) Any interested person may obtain a judicial declaration as to the validity of any regulation by bringing an action for declaratory relief in the superior court in accordance with the provisions of the Code of Civil Procedure. The right to judicial determination shall not be affected by the failure either to petition or to seek reconsideration of a petition filed pursuant to Section 11347.1 before the agency promulgating the regulations. The regulation may be declared to be invalid for a substantial failure to comply with the provisions of this chapter, or, in the case of an emergency regulation or order to repeal, upon the ground that the facts recited in the statement do not constitute an emergency within the provisions of Section 11346.1.

(b) In addition to any other ground that may exist, a regulation may be declared invalid if either of the following exists:

(1) The agency's determination that the regulation is reasonably necessary to effectuate the purpose of the statute, court decision, or other provision of law that is being implemented, interpreted, or made specific by the regulation is not supported by substantial evidence.

(2) The agency declaration pursuant to subdivision (c) of Section 11346.53 is in conflict with substantial evidence in the record.

For purposes of this section, the record shall be deemed to consist of all material maintained in the file of the rulemaking proceeding as defined in Section 11347.3.

(c) The approval of a regulation by the office or the Governor's overruling of a decision of the office disapproving a regulation shall not be considered by a court in any action for declaratory relief brought with respect to a regulation.

SEC. 7. Section 40727 of the Health and Safety Code is amended to read:

40727. (a) Before adopting, amending, or repealing a rule or regulation, the district board shall make findings of necessity, authority, clarity, consistency, nonduplication, and reference, as defined in this section, based upon relevant information presented at the hearing.

(b) As used in this section, "necessity" means that a need exists for the regulation, or for its amendment or repeal, as demonstrated by the record of the rulemaking authority.

(c) As used in this section, "authority" means that a provision of law or of a state or federal regulation permits or requires the regional agency to adopt, amend, or repeal the regulation.

(d) As used in this section, "clarity" means that the regulation is written or displayed so that its meaning can be easily understood by the persons directly affected by it.

(e) As used in this section, "consistency" means that the regulation is in harmony with, and not in conflict with or

contradictory to, existing statutes, court decisions, or state or federal regulations.

(f) As used in this section, "nonduplication" means that a regulation does not impose the same requirements as an existing state or federal regulation unless a district finds that the requirements are necessary or proper to execute the powers and duties granted to, and imposed upon, a district.

(g) As used in this section, "reference" means the statute, court decision, or other provision of law that the district implements, interprets, or makes specific by adopting, amending, or repealing a regulation.

SEC. 8. Section 40728.5 is added to the Health and Safety Code, to read:

40728.5. (a) Whenever a district intends to propose the adoption, amendment, or repeal of a rule or regulation that will significantly affect air quality or emissions limitations, that agency shall, to the extent data are available, perform an assessment of the socioeconomic impacts of the adoption, amendment, or repeal of the rule or regulation. The district board shall actively consider the socioeconomic impact of regulations and make a good faith effort to minimize adverse socioeconomic impacts, as defined below.

(b) For purposes of this section, "socioeconomic impact" means the following:

(1) The type of industries or business, including small business, affected by the rule or regulation.

(2) The impact of the rule or regulation on employment and the economy of the region affected by the adoption of the rule or regulation.

(3) The range of probable costs, including costs to industry or business, including small business, of the rule or regulation.

(4) The availability and cost effectiveness of alternatives to the rule or regulation being proposed or amended.

(5) The emission reduction potential of the rule or regulation.

(6) The necessity of adopting, amending, or repealing the rule or regulation in order to attain state and federal ambient air standards pursuant to Chapter 10 (commencing with Section 40910).

(c) This section shall not apply to any district with a population of less than 500,000 persons.

(d) On or before June 1, 1992, each district qualifying under subdivision (c) shall enter into a contract with an independent firm to perform a review and analysis of the methods by which the district assesses socioeconomic impacts of district rules and regulations. The analysis shall include an evaluation of any statistical models and other relevant data used by the district, the proficiency by which the data are applied, and recommendations for any improvements needed to ensure the accuracy and reliability of the assessments. The analysis shall evaluate the expertise of the district in performing the assessments and shall evaluate whether the quality and accuracy of these assessments would be substantially improved if they were

performed by an independent contractor. The analysis shall compare the relative costs of contracting independently versus having the district perform the assessments.

(e) On or before October 1, 1992, the analyses by independent firms, as specified in subdivision (d), shall be completed and submitted to the Legislature and the Governor.

SEC. 9. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 795

An act to amend Section 17037 of, and to add Sections 17037.5 and 17061.9 to, the Health and Safety Code, relating to employee housing.

[Approved by Governor October 9, 1991 Filed with Secretary of State October 10, 1991.]

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

SECTION 1. Section 17037 of the Health and Safety Code is amended to read:

17037. (a) Every person, or the agent or officer thereof, constructing, operating, or maintaining a labor camp shall comply with the requirements of this part, with building standards published in the State Building Standards Code relating to labor camps, and with the other regulations adopted pursuant to this part.

(b) (1) Any person operating or maintaining a labor camp without first having obtained a permit to operate from the enforcement agency shall pay double the fees prescribed for the permit to operate the camp.

(2) Any person found for a second or subsequent time within a five-year period to be operating or maintaining a labor camp without first having obtained a permit to operate from the enforcement agency shall pay 10 times the fees prescribed for the permit to operate the camp. The two or more violations referenced in this paragraph may be with regard either to the same enforcement agency or to two or more different enforcement agencies.

SEC. 2. Section 17037.5 is added to the Health and Safety Code,

to read:

17037.5. (a) Any person who ceases to operate or maintain a labor camp which is subject to the permit requirement pursuant to this part shall be required to annually complete and submit a Certificate of Non-Operation to the enforcement agency. The Certificate of Non-Operation shall be submitted for two years following the discontinuation of the use of any area on the property as a labor camp. The Certificate of Non-Operation shall attest under penalty of perjury that the labor camp has been destroyed, or is no longer owned or operated, or has not been and shall not be occupied by five or more employees during the calendar year.

(b) The Certificate of Non-Operation shall include the owner's name and address, the operator's name and address, the labor camp name and location, the maximum number of employees who have occupied or shall occupy the labor camp during the calendar year, and any other information considered relevant by the enforcement agency. The Certificate of Non-Operation shall be completed and submitted to the enforcement agency no later than 30 calendar days after the enforcement agency provides the form to the operator.

SEC. 3. Section 17061.9 is added to the Health and Safety Code, to read:

17061.9. (a) In addition to other remedies provided in this part, the Director of the Department of Housing and Community Development or his or her designee or an employee authorized by a local enforcement agency which has assumed jurisdiction pursuant to Section 17050, may issue a citation which assesses a civil penalty to any operator of a labor camp violating this part, or regulations promulgated hereunder, if the operator has permitted the continuation of a violation for at least 30 days after issuance of an order to correct the violation or violations from the enforcement agency. Each citation and related civil penalty assessment shall be issued no later than seven months after issuance of the order to correct which is the basis of the citation. The civil penalties provided for in this section are not in addition to the penalties established in subdivision (b) of Section 17037.

(b) The amount of any civil penalty assessed pursuant to subdivision (a) shall not exceed three hundred dollars ($300) for each violation. The civil penalties assessed pursuant to this section shall be payable to the enforcement agency, notwithstanding any other provision of law. Whether or not the violation or violations, if applicable, giving cause for the citation are corrected, payment of the civil penalty shall be remitted to the enforcement agency within 45 days of the issuance of the citation.

(c) The amount of the civil penalty shall be increased to an amount not to exceed five hundred dollars ($500) for a violation if all the following circumstances exist:

(1) The citation is for a second or subsequent violation of this part, or the regulations promulgated hereunder, for which an order to correct was issued within one year prior to issuance of the new

citation; and

(2) The original violation has continued to exist for at least six months from the date the order to correct the violation was issued or has recurred within six months from the date the order to correct the violation was issued.

(d) Any person or entity served a citation pursuant to this section may petition the director or his or her designee or the officially authorized representative of the local enforcement agency, where applicable. The petition shall be a written request briefly stating the grounds of the request. Any petition to be considered, shall be received by the department within 30 days of the date of issuance of the citation.

(e) Upon receipt of a timely and complying petition, the enforcement agency shall suspend enforcement of the citation and set a time and place for the informal hearing and shall give the recipient of the citation written notice thereof. The hearing shall commence no later than 30 days following receipt of the petition or at another time scheduled by the enforcement agency pursuant to a request by the petitioner or the enforcement agency if the enforcement agency determines that good and sufficient cause exists. If the petitioner fails to appear at the time and place scheduled for the hearing, the enforcement agency may notify the petitioner in writing that the petition is dismissed and that compliance with the terms of the citation shall occur within 10 days after receipt of the notification.

(f) The enforcement agency shall notify the petitioner in writing of its decision and the reasons therefor within 30 days following conclusion of the informal hearing held pursuant to this section. If the decision upholds the citation, in whole or in part, the petitioner shall comply with the citation in accordance with the decision within 30 days after the decision is mailed by the enforcement agency.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for those costs which may be incurred by a local agency or school district because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

However, notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains other costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund.

Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 796

An act to amend the heading of Part 13 (commencing with Section 5800) of Division 1 of, and to amend Sections 5800, 5801, 5802, 5803, 5804, 5805, 5810, 5811, 5812, 5813, 5814, 5825, 5830, 5831, 5832, 5841, and 5842 of, and to add Section 5815 to, the Revenue and Taxation Code, relating to property taxation.

[Approved by Governor October 9, 1991 Filed with Secretary of State October 10, 1991.]

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

SECTION 1. The heading of Part 13 (commencing with Section 5800) of Division 1 of the Revenue and Taxation Code is amended to read:

PART 13. TAXATION OF MANUFACTURED HOMES

SEC. 2. Section 5800 of the Revenue and Taxation Code is amended to read:

5800. This part shall be known and may be cited as "The Manufactured Home Property Tax Law."

SEC. 3. Section 5801 of the Revenue and Taxation Code is amended to read:

5801. (a) As used in this part, "manufactured home" means a manufactured home as defined in Section 18007 of the Health and Safety Code or a mobilehome as defined in Section 18008 of the Health and Safety Code which:

(1) Was first sold new on or after July 1, 1980.

(2) Was, at the request of the owner, and following his or her notification of the Department of Housing and Community Development and the assessor, made subject to taxation under this part.

(b) (1) "Manufactured home," as used in this part, does not include a manufactured home which has become real property by being affixed to land on a permanent foundation system pursuant to Section 18551 of the Health and Safety Code and is taxed as all other real property is taxed.

(2) Except as provided in paragraph (1), a manufactured home, otherwise subject to taxation pursuant to this part, shall not be classified as real property for property taxation purposes that would be excluded from taxation pursuant to this part.

SEC. 4. Section 5802 of the Revenue and Taxation Code is amended to read:

5802. (a) Except as provided in subdivision (b), "base year value" as used in this part means the full cash value of a manufactured home on the date the manufactured home is purchased or changes ownership. If the manufactured home

undergoes any new construction after it is purchased or changes ownership, the base year value of the new construction is its full cash value on the date on which the new construction is completed, and if uncompleted, on the lien date.

(b) The base year value of a manufactured home for which the license fee is delinquent shall be its full cash value on the lien date for the fiscal year in which it is first enrolled.

SEC. 5. Section 5803 of the Revenue and Taxation Code is amended to read:

5803. (a) "Full cash value" means the "full cash value" or the "fair market value," as determined pursuant to Section 110, of a manufactured home similarly equipped and installed, including any value attributable to a manufactured home accessory building or structure as defined in Section 18008.5 of the Health and Safety Code which is sold along with the manufactured home, giving recognition, however, to the exemption provided in subdivision (m) of Section 3 of Article XIII of the Constitution.

(b) The Legislature finds and declares that, because owners of manufactured homes subject to property taxation on rented or leased land do not own the land on which the manufactured home is located and are subject to having the manufactured home removed upon termination of tenancy, "full cash value" for purposes of subdivision (a) does not include any value attributable to the particular site where the manufactured home is located on rented or leased land which would make the sale price of the manufactured home at that location different from its price at some other location on rented or leased land. In determining the "full cash value" of such a manufactured home on rented or leased land, the assessor shall take into consideration, among other relevant factors, sales prices listed in recognized value guides for manufactured homes, including, but not limited to, the Kelly Blue Book Manufactured Housing and Mobilehome Guide and the National Automobile Dealer Association's Mobilehome Manufactured Housing Appraisal Guide.

SEC. 6. Section 5804 of the Revenue and Taxation Code is amended to read:

5804. As used in this part, "taxable value of a manufactured home" means the base year value, or the base year value as adjusted pursuant to Section 5813, plus the value of any new construction as determined pursuant to Section 5825.

SEC. 7. Section 5805 of the Revenue and Taxation Code is amended to read:

5805. (a) Notwithstanding any other provision of law, manufactured home accessories, as defined in Section 18008.5 of the Health and Safety Code, installed on a rented or leased lot with a manufactured home first sold prior to January 1, 1977, and which were subject to the state vehicle license fee, shall not be subject to local property taxation, unless the manufactured home is also subject to local property taxation pursuant to this part or the accessory is permanently affixed to the land, such as on a foundation.

(b) In accordance with subdivision (a), manufactured home accessories installed on a rented or leased lot with a manufactured home first sold prior to January 1, 1977, shall be presumed subject to the state vehicle license fee. This presumption may be rebutted by evidence that an accessory was not included in the vehicle license fee base for the manufactured home or was not otherwise subject to the vehicle license fee.

SEC. 8. Section 5810 of the Revenue and Taxation Code is amended to read:

5810. Except as otherwise provided in this part, manufactured homes shall be subject to property taxation in the same manner and to the same extent, and shall be subject to the other provisions of this division in the same manner and to the same extent as any other personal property on the roll as defined in Section 109.

SEC. 9. Section 5811 of the Revenue and Taxation Code is amended to read:

5811. The amount of local property tax on a manufactured home shall be determined by applying the appropriate assessment ratio and tax rate to the taxable value of the manufactured home. The "appropriate tax rate" is the rate determined under Section 2237 for the tax rate area in which the manufactured home is situated.

SEC. 10. Section 5812 of the Revenue and Taxation Code is amended to read:

5812. The base year value of a manufactured home which is purchased or which changed ownership shall be entered on the roll for the lien date next succeeding the date of the purchase or change in ownership. The value of any new construction shall be entered on the roll for the lien date next succeeding the date of completion of the new construction. The value of new construction in progress on the lien date shall be entered on the roll as of the lien date.

SEC. 11. Section 5813 of the Revenue and Taxation Code is amended to read:

5813. For each lien date after the lien date for which the base year value is determined, the taxable value of a manufactured home shall be the lesser of:

(a) Its base year value, compounded annually since the base year by an inflation factor, which shall be the percentage change in the cost of living, as defined in Section 2212, provided, that any percentage increase shall not exceed 2 percent of the prior year's value; or

(b) Its full cash value, as defined in Section 5803, as of the lien date, taking into account reductions in value due to damage, destruction, depreciation, obsolescence, or other factors causing a decline in value; or

(c) If the manufactured home is damaged or destroyed by disaster, misfortune, or calamity, its value determined pursuant to (b) shall be its base year value until the manufactured home is restored, repaired or reconstructed or other provisions of law require establishment of a new base year value.

SEC. 12. Section 5814 of the Revenue and Taxation Code is amended to read:

5814. For purposes of this part, "change in ownership" and "purchase" shall have the same meanings as provided in Sections 60 to 68, inclusive, to the extent applicable. The operative dates of those sections shall be controlling in the determination of whether a change in ownership or purchase of a manufactured home has occurred.

SEC. 13. Section 5815 is added to the Revenue and Taxation Code, to read:

5815. Notwithstanding any other provision of law, a manufactured home otherwise subject to taxation pursuant to this part, which has been removed from its situs and returned to a dealer's established place of business for purposes of resale, shall not be subject to property taxation during the period it is held in the dealer's inventory, provided it remains personal property.

SEC. 14. Section 5825 of the Revenue and Taxation Code is amended to read:

5825. (a) "Newly constructed" and "new construction" means:

(1) Any substantial addition to a manufactured home since the last lien date; and

(2) Any alteration of the manufactured home which constitutes a major rehabilitation thereof or which converts the property to a different use.

(b) Any rehabilitation, renovation, or modernization which converts a manufactured home to the substantial equivalent of a new manufactured home is a major rehabilitation of that manufactured home.

(c) Notwithstanding subdivisions (a) and (b), if a manufactured home has been damaged or destroyed by misfortune or calamity, "newly constructed" and "new construction" does not mean any timely reconstruction or replacement of the manufactured home, or portion thereof, where the manufactured home after reconstruction or replacement is substantially equivalent to the manufactured home prior to damage or destruction. Any reconstruction or replacement of a manufactured home, or portion thereof, which is not substantially equivalent to the damaged or destroyed manufactured home, shall be deemed to be new construction and only that portion which exceeds substantially equivalent reconstruction or replacement shall have a new base year value determined pursuant to Section 110.1.

If a manufactured home, subject to vehicle license and registration fees pursuant to Article 6 (commencing with Section 18114) of Chapter 8 of Part 2 of Division 13 of the Health and Safety Code, is destroyed or damaged by misfortune or calamity and is replaced by a substantially equivalent manufactured home subject to local property taxation, the assessor shall determine a base year value for that replacement manufactured home so that the property taxes levied, after adjustment for any applicable exemption, shall be the

same amount as the vehicle license and registration fees for the previous manufactured home for the year prior to its destruction or damage.

(d) Notwithstanding subdivisions (a) and (b), if a manufactured home, subject to vehicle license and registration fees pursuant to Article 6 (commencing with Section 18114) of Chapter 8 of Part 2 of Division 13 of the Health and Safety Code is taken by eminent domain, acquired by a public entity, or subject to any governmental action resulting in a judgment of inverse condemnation, "newly constructed" and "new construction" shall not mean any timely replacement of that manufactured home.

If a manufactured home, subject to vehicle license and registration fees pursuant to Article 6 (commencing with Section 18114) of Chapter 8 of Part 2 of Division 13 of the Health and Safety Code, is taken by eminent domain, acquired by a public entity, or subject to any governmental action resulting in a judgment of inverse condemnation, and is replaced by a comparable manufactured home subject to local property taxation, the assessor shall determine a base year value for the replacement manufactured home so that the property taxes levied, after adjustment for any applicable exemption, shall be the same amount as the vehicle license and registration fees for the previous manufactured home in the year that manufactured home was taken, acquired, or adjudged to be inversely condemned.

(e) The assessor shall determine the new base year value for the portion of any manufactured home which has been newly constructed. The base year value of the remainder of the manufactured home assessed, which did not undergo new construction, shall not be changed. New construction in progress on the lien date shall be appraised at its full value on such date and each lien date thereafter until the date of completion at which time the entire portion of the manufactured home which is newly constructed shall be reappraised at its full value.

SEC. 15. Section 5830 of the Revenue and Taxation Code is amended to read:

5830. The assessment of any manufactured home shall be entered on the secured roll and shall be subject to all provisions of law applicable to taxes on the secured roll, provided, however:

(a) If the taxes on any manufactured home are not a lien on real property of the owner of the manufactured home pursuant to Section 2188.1, 2189, or 2189.3 and are unpaid when any installment of taxes on the secured roll becomes delinquent, the tax collector may use the procedures applicable to the collection of delinquent taxes on the unsecured roll; and

(b) If the taxes on any manufactured home which are not a lien on real property of the owner of the manufactured home remain unpaid at the time set for the declaration of default for delinquent taxes, the taxes on the manufactured home, together with any penalties and costs which may have accrued thereon while on the secured roll, shall be transferred to the unsecured roll.

(c) The taxes on manufactured homes may be paid in two installments as provided in Chapter 2.1 (commencing with Section 2700) of Part 5, notwithstanding the provisions of Section 2605 and whether or not the board of supervisors has adopted a resolution in accordance with Section 2700.

SEC. 16. Section 5831 of the Revenue and Taxation Code is amended to read:

5831. (a) Except as provided in subdivision (f), the assessor shall, upon or prior to completion of the local roll:

(1) Notify each assessee whose manufactured home's taxable value has increased of the taxable value of that manufactured home as it shall appear on the completed local roll; and

(2) Notify each assessee whose mobilehome is to be placed on the local roll pursuant to subdivision (b) of Section 5812 because its license fee has become delinquent for 120 days or more of the taxable value of the manufactured home. The notification shall also be given to the legal owner, if any, of the manufactured home, at the same time it is given to the assessee.

(b) The information given by the assessor to the assessee and legal owner, as applicable, pursuant to paragraph (1) or (2) of subdivision (a) shall include a notification of hearings by the county board of equalization, which shall include the period during which assessment protests will be accepted and the place where they may be filed. The information shall also include an explanation of the stipulation procedure set forth in Section 1607 and the manner in which the assessee may request use of this procedure.

(c) The information shall also include the full value of the property.

(d) The information shall be furnished by the assessor to the assessee personally or by regular United States mail directed to him at his latest address known to the assessor.

(e) Neither the failure of the assessee to receive the information nor the failure of the assessor to so inform the assessee shall in any way affect the validity of any assessment or the validity of any taxes levied pursuant thereto.

(f) This section shall not apply to annual increases in the valuation of property which reflect the inflation rate, not to exceed 2 percent, pursuant to Section 5813.

(g) This section does not apply to increases in assessed value caused solely by changes in the assessment ratio provided for in Section 401.

SEC. 17. Section 5832 of the Revenue and Taxation Code is amended to read:

5832. (a) Upon application, the county tax collector shall issue a tax clearance certificate or a conditional tax clearance certificate. Any tax clearance certificate issued shall be used to permit registration of used manufactured homes and for any other purposes which may be prescribed by the Controller. The certificate may indicate that the county tax collector finds that no local property tax

is due or is likely to become due, or that any applicable local property taxes have been paid or are to be paid in a manner not requiring the withholding of registration or the transfer of registration. Any conditional tax clearance certificate issued shall indicate that the county tax collector finds that a tax liability exists, the amount due, and the final date that amount may be paid before a further tax liability is incurred. The certificate shall be in such form as the Controller may prescribe, and shall be executed, issued, and accepted for clearance of registration or permit issuance on the conditions which the Controller may prescribe.

(b) Within five working days of receipt of the written demand for a conditional tax clearance certificate or tax clearance certificate, the county tax collector shall forward the conditional tax clearance certificate or tax clearance certificate, showing no tax liability exists, to the requesting escrow officer. In the event the final due date of the tax clearance certificate or conditional tax clearance certificate expires within 30 days of the date of its issuance, an additional conditional tax clearance certificate or tax clearance certificate shall be completed, which has a final due date of at least 30 days beyond the date of issuance.

(c) If the tax collector fails to comply with the demand within 30 days from the date the demand is mailed, the escrow officer may close the escrow in accordance with the provisions of subdivision (m) of Section 18035 of the Health and Safety Code.

(d) Notwithstanding any provisions of law requiring the tax collector to issue a tax clearance certificate or conditional tax clearance certificate within a specified period of time, when an escrow information demand is made pursuant to Section 18035 of the Health and Safety Code for a manufactured home that has not been enrolled in the county, the tax collector shall be afforded the number of working days necessary for the assessor to determine the value of the manufactured home and for the auditor to extend tax liability.

(e) The issuance, alteration, forgery, or use of any tax clearance certificate or conditional certificate in a manner contrary to the requirements of the Controller constitutes a misdemeanor.

SEC. 18. Section 5841 of the Revenue and Taxation Code is amended to read:

5841. The Department of Housing and Community Development shall furnish to the county assessor of the county in which a manufactured home is sited, on or before the last day of each calendar month, a listing of all new registrations and titles to manufactured homes sited, or to be sited, in that county.

SEC. 19. Section 5842 of the Revenue and Taxation Code is amended to read:

5842. The board, the Department of Motor Vehicles, the Department of Housing and Community Development and any county assessor shall exchange or otherwise provide to one another any information relevant to the regulations, titling and taxation of manufactured homes. Such information shall be held confidential by

the party receiving the information, except to the extent the information is open to public inspection pursuant to Sections 408, 408.1, and 833 of the Revenue and Taxation Code, and Section 1808 of the Vehicle Code.

SEC. 20. Notwithstanding Section 2229 of the Revenue and Taxation Code, the requirements of that section relating to any exemption of property for more than five years or for more than 75 percent of the value thereof, shall not apply to any exemption made by this act. In addition, no appropriation is made by this act and the state shall not reimburse any local agency for any property tax revenues lost by it pursuant to this act.

CHAPTER 797

An act to amend Section 1367.3 of the Health and Safety Code, and to add Sections 10119.8 and 11512.35 to the Insurance Code, relating to health coverage.

[Approved by Governor October 10, 1991 Filed with Secretary of State October 11, 1991]

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

SECTION 1. Section 1367.3 of the Health and Safety Code is amended to read:

1367.3. (a) On and after January 1, 1980, every health care service plan that covers hospital, medical, or surgical expenses on a group basis shall offer benefits for the comprehensive preventive care of children. Every plan shall communicate the availability of these benefits to all group contractholders and to all prospective group contractholders with whom they are negotiating. This section shall apply to a plan which, by rule or order of the commissioner, has been exempted from subdivision (i) of Section 1367, insofar as that section and the rules thereunder relate to the provision of the preventive health care services described herein.

(b) For purposes of this section, benefits for the comprehensive preventive care of children shall be consistent with the Recommendations for Preventive Pediatric Health Care, as adopted by the American Academy of Pediatrics in September 1987, and provide for the following:

(1) Physician services for routine physical examinations.

(2) Immunizations.

(3) Laboratory services in connection with routine physical examinations.

(4) For health care service plan contracts within the scope of this section that are issued, amended, or renewed on and after January 1, 1993, screening for blood lead levels in children at risk for lead poisoning, as determined by a physician and surgeon affiliated with

the plan, when the screening is prescribed by a physician and surgeon affiliated with the plan

SEC. 2. Section 10119.8 is added to the Insurance Code, to read:

10119.8. On and after January 1, 1993, every insurer issuing, amending, or renewing a policy of individual or group disability insurance that covers hospital, medical, or surgical expenses shall offer coverage for screening for blood lead levels for covered children. This section shall not apply to specified accident, specified disease, hospital indemnity, Medicare supplement, or long-term care health insurance policies.

SEC. 3. Section 11512.35 is added to the Insurance Code, to read:

11512.35. On and after January 1, 1993, every nonprofit hospital service plan contract which is issued, amended, or renewed that covers hospital, medical, or surgical expenses shall offer coverage for screening for blood lead levels for covered children.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 798

An act to add Sections 429.13, 429.14, and 429.15 to the Health and Safety Code, and to amend Section 43101 of, and to add Sections 43056, 43152.13, and 43553 to, the Revenue and Taxation Code, relating to health.

[Approved by Governor October 10, 1991 Filed with Secretary of State October 11, 1991.]

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

SECTION 1. (a) The Legislature finds and declares as follows:

(1) Occupational lead poisoning is a preventable disease.

(2) Lead poisoning affects the nervous, gastrointestinal, blood-forming, and reproductive systems.

(3) Workplace lead exposures may result in take-home exposures which cause childhood lead poisoning or environmental contamination.

(4) There is an urgent need to compile and analyze available information which will enable public health officials to identify patterns of occupational lead poisoning, and recommend actions to

eliminate the threat of occupational lead poisoning.

(b) Therefore, it is the intent of the Legislature to provide a coordinated and efficient structure to deal with these issues, and to eliminate the problem of occupational lead poisoning.

(c) It is also the intent of the Legislature that the fee structure established by this act will be modified to reflect the magnitude of lead exposure in the affected industries as data concerning blood lead levels within these industries becomes available through implementation of this program.

SEC. 2. Section 429.13 is added to the Health and Safety Code, to read:

429.13. (a) The state department shall establish and maintain an occupational lead poisoning prevention program, including, but not limited to, the following:

(1) Developing a system for monitoring laboratory reports of cases of adult lead toxicity, to create an occupational lead poisoning registry.

(2) Following up reported cases of occupational lead poisoning to ascertain the source of lead exposure.

(3) Conducting investigations in cases where take-home exposure may be occurring, where there is a likelihood of identifying additional cases, or where a previously unidentified risk factor may be present.

(4) Conducting training of employers, employees, and health professionals regarding prevention of occupational lead poisoning.

(5) Making recommendations for the prevention of lead poisoning.

(b) In any situation where the activities specified in subdivision (a) may duplicate or overlap the activities of any other state department or agency, including the Department of Industrial Relations, the state department shall coordinate with the other departments or agency and take actions to avoid program and service duplication.

(c) The state department may adopt regulations to implement this section and Sections 429.14 and 429.15. Any regulations adopted shall be considered and adopted as emergency regulations in accordance with Section 11346.1 of the Government Code.

SEC. 3. Section 429.14 is added to the Health and Safety Code, to read:

429.14. (a) A fee shall be paid annually to the State Board of Equalization by employers in industries identified by the four-digit Standard Industrial Classification (S.I.C., 1987 Edition) established by the United States Department of Commerce and for which the State Board of Equalization has received information from the State Department of Health Services of documented evidence of potential occupational lead poisoning.

(b) The State Department of Health Services shall provide to the State Board of Equalization on or before the first day of November of each year, all information for the prior three-year period obtained

by the California Blood Lead Registry, regarding evidence of potential occupational lead poisoning by the Standard Industrial Classification. Based on this information, the State Board of Equalization shall determine whether an employer is within Category A of the Standard Industrial Classification or within Category B of the Standard Industrial Classification and shall implement the fee schedule set forth in subdivision (c). For the purpose of this subdivision and subdivision (c), a Category A Standard Industrial Classification code is a Standard Industrial Classification code listed in Section 429.15 for which there have been less than 20 persons with elevated blood lead levels reported to the California Blood Lead Registry in the prior three-year period. A Category B Standard Industrial Classification code is a Standard Industrial Classification code listed in Section 429.15 for which there have been 20 or more persons with elevated blood lead levels reported to the California Blood Lead Registry in the prior three-year period. An elevated blood lead level is a level greater than or equal to 25 micrograms of lead per deciliter of blood.

(c) For employers with 10 or more employees, but less than 100 employees, in a Category A Standard Industrial Classification code, the annual fee shall be one hundred seventy-five dollars ($175). For employers with 100 or more employees, but less than 500 employees, in a Category A Standard Industrial Classification code, the annual fee shall be three hundred fifty dollars ($350). For employers with 500 or more employees in a Category A Standard Industrial Classification code, the annual fee shall be eight hundred seventy-five dollars ($875). For employers with 10 or more employees, but less than 100 employees, in a Category B Standard Industrial Classification code, the annual fee shall be two hundred fifty dollars ($250). For employers with 100 or more employees, but less than 500 employees, in a Category B Standard Industrial Classification code, the annual fee shall be seven hundred dollars ($700). For employers with 500 or more employees in a Category B Standard Industrial Classification code, the annual fee shall be two thousand dollars ($2,000). For the purpose of this subdivision, an employer is any person defined in Section 25118 of the Health and Safety Code. Employers with fewer than 10 employees are not subject to any fees pursuant to this section.

(d) The annual fee imposed in subdivision (b) shall be adjusted annually by the State Board of Equalization to reflect increases or decreases in the cost of living during the prior fiscal year as measured by the Consumer Price Index issued by the United States Department of Labor or a successor agency of the federal government. This adjustment of fees shall not be subject to the requirements of Chapter 2.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(e) In no event shall the annual fee exceed the cost of the program described in Section 429.13. The state department may exempt from payment of fees those employers who demonstrate that lead is not

present in their places of employment. The cost of the program described in Section 429.13 shall not exceed the amount of revenue collected from the annual fee.

(f) The fee imposed pursuant to subdivision (b) shall be paid by each employer which is identified in the schedule in accordance with Part 22 (commencing with Section 43001) of Division 2 of the Revenue and Taxation Code and shall be deposited in the Occupational Lead Poisoning Prevention Account of the General Fund, which is hereby created, to be expended for the purposes of the Occupational Lead Poisoning Prevention Program, including the cost of administering the fees by the State Board of Equalization, upon appropriation by the Legislature.

SEC. 4. Section 429.15 is added to the Health and Safety Code, to read:

429.15. (a) Sections 429.13 and 429.14 shall apply to the following industries:

(1) 1622 Bridges, tunnels, and elevated highways.
(2) 1721 Painting, paper hanging, and decorating.
(3) 1791 Structural steel erection.
(4) 1795 Wrecking and demolition work.
(5) 2759 Commercial printing.
(6) 2816 Inorganic pigments manufacture.
(7) 2819 Industrial inorganic chemicals.
(8) 2821 Plastics materials and resins.
(9) 2892 Explosives manufacture.
(10) 2899 Chemical preparations.
(11) 3069 Fabricated rubber products.
(12) 3087 Custom compounding of purchased plastics resins.
(13) 3089 Plastic products.
(14) 3229 Pressed and blown glass.
(15) 3231 Products of purchased glass.
(16) 3253 Ceramic walls and floor tiles.
(17) 3262 Vitreous china food utensils.
(18) 3269 Pottery products.
(19) 3313 Electrometalurgical products.
(20) 3331 Primary copper.
(21) 3339 Primary nonferrous metals, except copper and aluminum.
(22) 3341 Secondary nonferrous metals.
(23) 3356 Nonferrous rolling, drawing, extruding.
(24) 3363 Aluminum die castings.
(25) 3364 Nonferrous die castings.
(26) 3365 Aluminum foundries.
(27) 3366 Copper foundries.
(28) 3369 Nonferrous foundries.
(29) 3399 Primary metal products.
(30) 3411 Metal cans manufacture.
(31) 3431 Metal sanitary ware.
(32) 3432 Plumbing fittings and brass goods.

(33) 3441 Fabricated structural metal.
(34) 3484 Small arms.
(35) 3491 Industrial valves.
(36) 3492 Fluid power valves and hose fittings.
(37) 3494 Valves and pipe fittings.
(38) 3496 Miscellaneous fabricated wire products.
(39) 3497 Metal foil and leaf.
(40) 3585 Refrigeration and heating equipment.
(41) 3599 Machinery, except electrical.
(42) 3624 Carbon and graphite products.
(43) 3661 Telephone and telegraph apparatus.
(44) 3662 Radio and television communication equipment.
(45) 3663 Radio and television equipment.
(46) 3669 Communications equipment.
(47) 3674 Semiconductors and related devices.
(48) 3691 Storage batteries.
(49) 3692 Primary batteries, dry and wet.
(50) 3699 Electrical equipment and supplies.
(51) 3711 Motor vehicles and car bodies.
(52) 3714 Motor vehicle parts and accessories.
(53) 3721 Aircraft.
(54) 3953 Marking devices.
(55) 3812 Search and navigation equipment.
(56) 3829 Measuring and controlling devices.
(57) 5064 Electrical appliances, television, and radios.
(58) 5093 Scrap and waste materials.
(59) 7538 General automotive repair shops.
(60) 7539 Automotive repair shops.
(61) 7997 Membership sports and recreation clubs.
(62) 7999 Amusement and recreation.

(b) (1) If the state department determines that the potential for occupational lead poisoning exists in industries not covered by this section, based on new evidence, the state department shall have the authority to add Standard Industrial Classification codes by regulation. Multiple case reports of occupational lead toxicity shall be a criterion for adding Standard Industrial Classification codes covered by this section for the purpose of fee assessment.

(2) If the state department determines that lead use and lead exposure no longer exist in an industry covered by this section, based on new evidence, the state department shall delete the Standard Industrial Classification code or individual industries within a Standard Industrial Classification code by regulation. If the state department otherwise determines that the potential for occupational lead poisoning no longer exists in an industry covered by this section, based on new evidence, the state department shall have the authority to delete Standard Industrial Classification codes or individual industries with a Standard Industrial Classification code by regulation. If the state department determines that lead use and lead exposure no longer exist in the operations of an employer in an

industry covered by this section, based on evidence submitted by the employer, the state department may waive the fee of that employer.

SEC. 5. Section 43056 is added to the Revenue and Taxation Code, to read:

43056. The fee imposed pursuant to Section 429.14 of the Health and Safety Code shall be administered and collected by the board in accordance with this part.

SEC. 6. Section 43101 of the Revenue and Taxation Code is amended to read:

43101. Every person, as defined in Section 25118 of the Health and Safety Code, who is subject to the fees specified in subdivision (a) of Section 25174 of the Health and Safety Code or imposed pursuant to Section 25174.1 of the Health and Safety Code or Section 429.14 of the Health and Safety Code or the surcharge imposed pursuant to Section 25205.9 of the Health and Safety Code shall register with the board on forms provided by the board.

SEC. 7. Section 43152.13 is added to the Revenue and Taxation Code, to read:

43152.13. (a) The fee imposed pursuant to Section 429.14 of the Health and Safety Code, which is collected and administered under Section 43056, is due and payable on the last day of the second month following the end of the calendar year.

(b) Every employer subject to the fee imposed pursuant to Section 429.14 of the Health and Safety Code shall, on forms provided by the board, file an annual return and pay the proper amount of fee due.

SEC. 8. Section 43553 is added to the Revenue and Taxation Code, to read:

43553. All taxes, interest, and penalties imposed on all amounts of tax required to be paid to the state pursuant to Section 43056 shall be paid to the board in the form of remittances payable to the State Board of Equalization. The board shall transmit the payments to the Treasurer to be deposited into the State Treasury to the credit of the Occupational Lead Poisoning Prevention Account.

SEC. 9. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 799

An act to amend Sections 113, 25886, 25887, and 25894 of, and to add Article 4.6 (commencing with Section 372) to Chapter 2 of Part 1 of Division 1 of, the Health and Safety Code, and to add Sections 43507, 43152.14, and 43554 to the Revenue and Taxation Code, relating to lead poisoning.

[Approved by Governor October 10, 1991. Filed with Secretary of State October 11, 1991]

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

SECTION 1. The Legislature finds and declares all of the following:

(a) Legislation was enacted in 1986 (Chapter 481 of the Statutes of 1986) creating the Childhood Lead Poisoning Prevention Program within the State Department of Health Services.

(b) The State Department of Health Services recently reported to the Legislature its findings and recommendations for the prevention of childhood lead poisoning in California, including, but not limited to, the following:

(1) Because of differences in metabolism and excretion of lead, children are more vulnerable to lead toxicity than adults.

(2) Exposure to even low levels of lead can result in brain damage and behavior problems that seriously impair a child's performance in school.

(3) Severe lead poisoning can result in cerebral palsy, mental retardation, and loss of muscle control.

(4) Ingestion of lead-contaminated dust and soil, lead-based paint chips, and water contaminated by lead solder in older plumbing continue to be sources of severe lead poisoning in children.

(5) Lead in soil and dust is primarily derived from automobile exhaust from leaded gasoline, industrial emissions, and lead paint.

(6) Although leaded gasoline use is declining, a large number of motor vehicles continue to use leaded gasoline. In addition, lead deposited in the environment from past leaded gasoline use persists in the environment.

(7) Hand-to-mouth exposure is the primary cause of excessive lead accumulation in children. This exposure is exacerbated by the pronounced hand-to-mouth behavior of infants and toddlers.

(c) It shall be the goal of the State of California to evaluate all children for risk of lead poisoning, to screen those children at risk, and to provide appropriate case management for lead-poisoned children.

(d) It shall also be the goal of the State of California to identify those sources of lead contamination that are responsible for lead-poisoned children so that the sources can be eliminated.

(e) It shall also be the goal of the State of California to identify and

utilize existing programs to provide appropriate case management for children found to have lead poisoning, to the extent possible.

(f) It shall also be the goal of the State of California to provide education on lead-poisoning detection and case management to health care providers throughout the state.

SEC. 2. Section 113 of the Health and Safety Code is amended to read:

113. (a) The fees or charges for the issuance or renewal of any permit, license, registration, or document pursuant to Sections 403, 436.53, 527, 1017, 1616, 1676, 1677, 2202, 2805, 4083, 11887, 23013, 25628, 25049, 25059, 25064, 25079.3, 25094, 25694, 25696, 25697, 25812.8, 25816, 25817, 25889, 26262, 26506.2, 26593.2, 26593.4, 26688, 27010, 27011, 28126, 28410, 28411, and 28702 shall be adjusted annually by the percentage change printed in the Budget Act for those items appropriating funds to the state department. After the first annual adjustment of fees or charges pursuant to this section, the fees or charges subject to subsequent adjustment shall be the fees or charges for the prior calendar year. The percentage change shall be determined by the Department of Finance, and shall include at least the total percentage change in salaries and operating expenses of the state department. However, the total increase in amounts collected under this section shall not exceed the total increased cost of the program or service provided.

(b) The state department shall publish annually a list of the actual numerical fee charges for each permit, license, certification, or registration governed by this section. This adjustment of fees and publication of the fee list shall not be subject to the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 3. Article 4.6 (commencing with Section 372) is added to Chapter 2 of Part 1 of Division 1 of the Health and Safety Code, to read:

Article 4.6. Childhood Lead Poisoning Prevention

372. This article shall be known, and may be cited as, the Childhood Lead Poisoning Prevention Act of 1991.

372.1. For purposes of this act, the following definitions apply:

(a) "Appropriate case management" means health care referrals, environmental assessments, and educational activities, performed by the appropriate person, professional, or entity, necessary to reduce a child's exposure to lead and the consequences of the exposure, as determined by the United States Centers for Disease Control, or as determined by the department pursuant to Section 372.6.

(b) "Lead poisoning" means the disease present when the concentration of lead in whole venous blood reaches or exceeds levels constituting a health risk, as specified in the most recent United States Centers for Disease Control guidelines for lead poisoning as determined by the department, or when the

concentration of lead in whole venous blood reaches or exceeds levels constituting a heath risk as determined by the department pursuant to Section 372.6.

(c) "Department" means the State Department of Health Services.

(d) "Health assessment" has the same meaning as prescribed in Section 6800 of Title 17 of the California Code of Regulations.

(e) "Screen" means the medical procedure by which the concentration of lead in whole venous blood is measured.

(f) "Health care" means the identification, through evaluation and screening, if indicated, of lead poisoning, as well as any followup medical treatment necessary to reduce the elevated blood lead levels.

(g) "Environmental lead contamination" means the persistent presence of lead in the environment, in quantifiable amounts, that results in ongoing and chronic exposure to children.

372.2. (a) After July 1, 1992, but on or before July 1, 1993, the department shall adopt regulations establishing a standard of care, at least as stringent as the most recent United States Centers for Disease Control screening guidelines, by which all children shall be evaluated for risk of lead poisoning by health care providers during each child's periodic health assessment. The regulations shall be developed in consultation with medical experts, environmental experts, appropriate professional organizations, and the public, as determined by the department.

(b) The standard of care shall provide that, upon evaluation, those children determined to be "at risk" for lead poisoning, according to the regulations adopted pursuant to subdivision (a), shall be screened.

(c) The standard of care shall provide that no child shall be screened pursuant to this article if the parent or guardian of the child refuses to consent to the screening.

(d) The standard of care shall provide that health care providers shall be responsible only for evaluation of all children, for screening of children determined to be at risk, and for medically necessary followup services.

(e) The standard of care established pursuant to this section shall not become operative before April 1, 1993.

372.3. On or after April 1, 1993, in those instances in which a child is identified with lead poisoning, the department shall ensure appropriate case management. The department may contract with any public or private entity, including local agencies, to conduct the case management.

372.4. The department shall collect and analyze all information necessary to effectively monitor appropriate case management efforts. The department shall prepare a biennial report describing the effectiveness of appropriate case management efforts. This report shall be made available to local health departments and the general public.

372.6. Notwithstanding Section 309.71, the department shall have broad regulatory authority to fully implement and effectuate the purposes of this article. The authority shall include, but is not limited to, the following:

(a) The development of protocols to be utilized in screening and the procedures for changing those protocols when more accurate or efficient technologies become available.

(b) The designation of laboratories which are qualified to analyze whole blood specimens for concentrations of lead and the monitoring of those laboratories for accuracy.

(c) The development of reporting procedures by laboratories.

(d) Reimbursement for state-sponsored services related to screening and appropriate case management.

(e) Establishment of lower concentrations of lead in whole blood than those specified by the United States Centers for Disease Control for the purpose of determining the existence of lead poisoning.

(f) Establishment of lower acceptable levels of the concentration of lead in whole blood than those specified by the United States Centers for Disease Control for the purpose of determining the need to provide appropriate case management for lead poisoning.

(g) Development of appropriate case management protocols.

(h) Notification to the child's parent or guardian of the results of blood lead testing and environmental assessment.

(i) The establishment of a periodicity schedule for evaluation for childhood lead poisoning.

372.65. The program implemented pursuant to this article shall be fully supported from the fees collected pursuant to Section 372.7. Notwithstanding the scope of activity mandated by this article, in no event shall this article be interpreted to require services necessitating expenditures in any fiscal year in excess of the fees, and earnings therefrom, collected pursuant to Section 372.7. This article shall be implemented only to the extent fee revenues pursuant to Section 372.7 are available for expenditure for purposes of this article.

372.7. (a) There is hereby imposed a fee on manufacturers and other persons formerly, presently, or both formerly and presently engaged in the stream of commerce of lead or products containing lead, or who are otherwise responsible for identifiable sources of lead, which have significantly contributed historically, currently contribute, or both have significantly contributed historically and contribute currently to environmental lead contamination.

(b) After July 1, 1992, but on or before January 1, 1993, the department shall, by regulation, establish specific fees to be assessed on manufacturers and other parties formerly, presently, or both formerly and presently engaged in the stream of commerce of lead or products containing lead, or who are otherwise responsible for identifiable sources of lead which, as determined by the department, have significantly contributed historically, currently contribute, or both have significantly contributed historically and contribute currently to environmental lead contamination.

To the maximum extent practicable, the fees shall be assessed on the basis of the following criteria:

(1) A person's past and present responsibility for environmental lead contamination.

(2) A person's "market share" responsibility for environmental lead contamination.

This section shall not apply to, and no fee shall be assessed upon, any retailer of lead or products containing lead.

(c) The fee shall be assessed and collected annually by the State Board of Equalization. The first payment of these fees shall be due on or before April 1, 1993. The annual fee assessment in subdivision (a) shall be adjusted by the department to reflect both of the following:

(1) The increase in the annual average of the California Consumers Price Index, as recorded by the California Department of Industrial Relations, for the most recent year available.

(2) The increase or decrease in the number of children in California who are receiving services pursuant to this article.

This adjustment of fees shall not be subject to the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(d) (1) No fee shall be assessed upon a person if that person can demonstrate, as determined by the department, that his or her industry did not contribute in any manner, as described in this section, to environmental lead contamination.

(2) No fee shall be assessed upon a party if that party demonstrates, as determined by the department, that the lead, or the product containing lead, with which it is currently, or was historically, associated does not currently, or did not historically, result in quantifiably persistent environmental lead contamination.

(e) The fee imposed pursuant to this section shall be administered and collected by the board of Equalization in accordance with the provisions of Part 22 (commencing with Section 43001) of Division 2 of the Revenue and Taxation Code. The fees shall be deposited in the Childhood Lead Poisoning Prevention Fund, which is hereby created in the State Treasury. Moneys in the fund shall be expended for the purposes of this article, including the State Board of Equalization's costs of collection and administration of fees, upon appropriation by the Legislature. All interest earned on the moneys which have been deposited into the Childhood Lead Poisoning Prevention Fund shall be retained in that fund.

(f) The fees collected pursuant to this section and the earnings therefrom shall be used solely for the purposes of implementing this article. The department shall not collect fees pursuant to this section in excess of the amount reasonably anticipated by the department to fully implement this article. The department shall not spend more than it collects from the fees and the earnings in implementing this article. In no fiscal year shall the department collect more than sixteen million dollars ($16,000,000) in fees, as adjusted for inflation

pursuant to subdivision (b).

(g) It is the intent of the Legislature, in subsequent legislation, to appropriate and deposit into the Childhood Lead Poisoning Prevention Fund the sum of one hundred twenty-eight thousand dollars ($128,000) from the General Fund on July 1, 1992, to the Controller for allocation as loans as follows:

(1) Seventy-eight thousand dollars ($78,000) to the State Department of Health Services, for the purposes of adopting regulations to establish the fee schedule authorized by this section. The State Board of Equalization shall repay the amount of this appropriation, on or before June 30, 1993, with interest at the pooled money investment rate, from fees collected pursuant to this section.

(2) Fifty thousand dollars ($50,000) to the State Board of Equalization, for the purposes of implementing this section. The State Board of Equalization shall repay the amount of this appropriation on or before June 30, 1993, with interest at the pooled money investment rate, from fees collected pursuant to this section.

(h) Regulations adopted for fee assessment and collection pursuant to this section shall be exempt from review by the Office of Administrative Law.

SEC. 4. Section 25886 of the Health and Safety Code is amended to read:

25886. It is unlawful to manufacture, process, import, sell, deliver, hold for sale, supply, or offer for sale in this state any tableware that releases a level of lead or cadmium in violation of the standards contained in the Compliance Policy Guides 7117.06 and 7117.07 as described in 54 Federal Register 23485 or any subsequent, more stringent standards adopted by the United States Food and Drug Administration, as determined by the director.

SEC. 5. Section 25887 of the Health and Safety Code is amended to read:

25887. (a) Except as provided in subdivisions (c) and (d), each piece of tableware sold, or offered for sale, in this state shall be permanently and indelibly marked with the name of the manufacturer or importer responsible for the sale of the tableware in California.

(b) For the purposes of this section, permanently and indelibly marked means fired or manufactured into the glazed tableware.

(c) This section shall not apply to any tableware that is manufactured without lead or cadmium as an intentionally added ingredient or as an unintentional contaminant.

(d) This section shall not apply to any tableware product which is of a peculiar structure or too small to accommodate the name of the manufacturer or importer in accordance with subdivision (a), provided that the product either (1) is permanently and indelibly marked with a registered trademark which is on file with the department, or is described and depicted in a certificate of registration which is on file with the department, or (2) is part of a tableware set or pattern, one or more pieces of which are marked in

accordance with subdivision (a).

SEC. 6. Section 25894 of the Health and Safety Code is amended to read:

25894. (a) Whenever an authorized agent of the department finds, or has probable cause to believe, that any tableware has the potential to release amounts of lead or cadmium in violation of this chapter, he or she shall affix to the tableware a detention tag, embargo tag, or other similar marking, as determined appropriate by the authorized agent. The tag or other marking shall give notice that the tableware is suspected of releasing amounts of lead or cadmium in violation of this chapter and that no person shall remove or dispose of the tableware by sale or otherwise until permission for removal or disposal is given by an authorized agent of the department or the court.

(b) For the purposes of this section, an authorized agent has probable cause to believe that tableware has the potential to release amounts of lead or cadmium in violation of this chapter when, but not limited to instances when, the tableware tests positive for lead or cadmium release using the field test described in the document published by the United States Food and Drug Administration entitled Analytical Letters Vol. 21, 1988, pages 2145 to 2154, inclusive, or any other test for lead release subsequently approved for field use by the United States Food and Drug Administration and determined by the department to be at least as effective a test for lead or cadmium release as the test described in this subdivision.

(c) If a field test conducted pursuant to subdivision (b) tests positive for lead release, the department shall use the Association of Official Analytical Chemists/American Society for Testing and Material 24-hour test method, or any other test subsequently approved by the federal Food and Drug Administration determined by the department to be at least as effective a test for lead or cadmium release as the test described in this subdivision. The department shall conduct or obtain those tests within a reasonable time after embargoing affected tableware, and shall release any tableware found not to violate the standards of this chapter within a reasonable time after the laboratory test has been completed. For any food establishment, as defined in Section 27520, the department shall conduct or obtain those tests within a reasonable time, not to exceed 10 days, after embargoing affected tableware, and shall release any tableware found not to violate the standards of this chapter within 96 hours after the laboratory test has been conducted.

(d) If an item of tableware is found to violate this chapter, the manufacturer, importer, retailer, and distributor shall, at the option of the holder of the tableware, either provide the holder of the tableware with comparable replacement tableware acceptable to the holder or be liable to the holder of the tableware for the cost of purchasing comparable replacement tableware.

(e) No person shall remove, sell, or dispose of detained or embargoed tableware without permission of an authorized agent of

the department or a court.

SEC. 7. Section 43057 is added to the Revenue and Taxation Code, to read:

43057. The fee imposed pursuant to Section 372.7 of the Health and Safety Code shall be administered and collected by the board in accordance with this part.

SEC. 8. Section 43152.14 is added to the Revenue and Taxation Code, to read:

43152.14. The fee imposed pursuant to Section 372.7 of the Health and Safety Code, which is collected and administered under Section 43057, is due and payable on or before April 1 of each year for the previous calendar year.

SEC. 9. Section 43554 is added to the Revenue and Taxation Code, to read:

43554. All fees, interest, and penalties imposed and all amounts of fees required to be paid to the state pursuant to Section 43057 shall be paid to the board in the form of remittances payable to the Board of Equalization of the State of California. The board shall transmit the payments to the Treasurer to be deposited in the State Treasury to the credit of the Childhood Lead Poisoning Prevention Fund.

SEC. 10. Nothing in this act shall be construed to require the state to abate sources of environmental lead contamination that are not otherwise required by law to be abated by the state.

SEC. 11. It is the intent of the Legislature that the State Department of Health Services exercise its authority in interpreting and implementing this act, including, but not limited to, assessing and collecting fees pursuant to Section 372.7 of the Health and Safety Code, to the extent not otherwise prohibited by law.

SEC. 12. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 800

An act to amend Sections 113, 1602, 1613, 1614, 1616, 1617, and 1726.1 of, to add Sections 1600.21, 1600.22, 1600.25, 1600.35, 1602.5, and 1616.5 to, and to repeal Sections 1601, 1602.1, 1603, and 1612 of, the Health and Safety Code, relating to health services.

[Approved by Governor October 10, 1991. Filed with Secretary of State October 11, 1991.]

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

SECTION 1. Section 113 of the Health and Safety Code is amended to read:

113. (a) The fees or charges for the issuance or renewal of any permit, license, registration, or document pursuant to Sections 403, 436.53, 527, 1017, 1616, 1616.5, 1676, 1677, 2202, 2805, 4083, 11887, 23013, 25628, 25049, 25059, 25064, 25079.3, 25094, 25694, 25696, 25697, 25812.8, 25816, 25817, 26262, 26506.2, 26593.2, 26593.4, 26688, 27010, 27011, 28126, 28410, 28411, and 28702 shall be adjusted annually by the percentage change printed in the Budget Act for those items appropriating funds to the state department. After the first annual adjustment of fees or charges pursuant to this section, the fees or charges subject to subsequent adjustment shall be the fees or charges for the prior calendar year. The percentage change shall be determined by the Department of Finance, and shall include at least the total percentage change in salaries and operating expenses of the state department. However, the total increase in amounts collected under this section shall not exceed the total increased cost of the program or service provided.

(b) The state department shall publish annually a list of the actual numerical fee charges for each permit, license, certification, or registration governed by this section. This adjustment of fees and publication of the fee list shall not be subject to the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 2. Section 1600.21 is added to the Health and Safety Code, to read:

1600.21. "Blood collection center" means a stationary auxiliary to a blood bank which is designed, equipped, and staffed to procure human whole blood or blood components which are to be transported to the blood bank for processing, storing, and distribution.

SEC. 3. Section 1600.22 is added to the Health and Safety Code, to read:

1600.22. "Stationary" means a nonmobile room or building maintained at a fixed address.

SEC. 4. Section 1600.25 is added to the Health and Safety Code, to read:

1600.25. "Mobile unit" means a transportable auxiliary to a blood bank designed, equipped, and staffed to procure human whole blood and to transport this blood to the bank for processing, storing, and distribution.

SEC. 5. Section 1600.35 is added to the Health and Safety Code, to read:

1600.35. "Blood component" or "blood derivative" means any product produced from whole blood.

SEC. 6. Section 1601 of the Health and Safety Code is repealed.

SEC. 7. Section 1602 of the Health and Safety Code is amended to read:

1602. No person licensed by the Public Health Service, United States Department of Health and Human Services shall be required to comply with Section 1602.5, or any regulations adopted thereunder.

SEC. 8. Section 1602.1 of the Health and Safety Code is repealed.

SEC. 9. Section 1602.5 is added to the Health and Safety Code, to read:

1602.5. (a) No person shall engage in the production of human whole blood or human whole blood derivatives unless the person is licensed under this chapter and the human whole blood or human whole blood derivative is collected, prepared, labeled, and stored in accordance with both of the following:

(1) The standards set forth in the 13th Edition of "Standards for Blood Banks and Transfusion Services," as published by the American Association of Blood Banks and in effect on November 15, 1989, or any amendments thereto or later published editions or amendments thereto.

(2) Those provisions of Title 17 of the California Code of Regulations that are continued in effect by subdivision (c) or that are adopted pursuant to subdivision (b).

(b) The department may, by the adoption of regulations, establish and require compliance with requirements in addition to, or in lieu of, those in subdivision (a) as the department deems appropriate to reflect changing technology or to improve the safety of human whole blood or human whole blood derivatives.

(c) Until the time superseded by any regulation adopted pursuant to this section, all of the provisions of Group 1 (commencing with Section 950) of Subchapter 1 of Chapter 2 of Part 1 of Title 17 of the California Code of Regulations shall remain in effect with the exception of the following:

(1) Subdivisions (i) to (k), inclusive, of Section 997.

(2) Sections 999 and 1001.

(3) Subdivisions (a) to (c), inclusive, of Section 1002.

(4) Paragraphs (2) and (3) of subdivision (e) of Section 1002.

(5) Subdivisions (f) and (g) of Section 1002.

(6) Paragraphs (2) to (6), inclusive, of subdivision (h) of Section 1002.

(7) Subdivisions (i), (k), and (*l*) of Section 1002.

(8) Subdivisions (a) to (c), inclusive, of Section 1004.

(9) Sections 1010, 1012, 1013, 1014, 1024, and 1024.1.

(10) Subdivisions (a), (b), and (e) of Section 1025.

(11) Paragraphs (1) to (3), inclusive, of subdivision (c) of Section 1025.

(d) Any amendment to the 13th Edition of "Standards for Blood Banks and Transfusion Services," any later editions, or any amendments thereto, published by the American Association of Blood Banks shall become effective in California 90 days after the effective date of this section, or 90 days after publication by the association, unless the department sends written notice, within such a 90-day period, to all persons licensed under this chapter to engage in the production of human whole blood or human whole blood derivatives, indicating which portions shall not become effective.

The department may determine that no portion of any amendments or later editions shall become effective. The department shall determine that no portion of an amendment or later edition shall become effective pursuant to this section whenever the department has not received a copy of the amendment or later edition by the date it is published by the American Association of Blood Banks.

SEC. 10. Section 1603 of the Health and Safety Code is repealed.

SEC. 11. Section 1612 of the Health and Safety Code is repealed.

SEC. 12. Section 1613 of the Health and Safety Code is amended to read:

1613. Applications for licenses issued under this chapter shall be made upon forms issued by the department. The applications shall contain at least the following:

(a) The name and address of the person owning the place, establishment, or institution in which biologics production is planned.

(b) The name and address of the person to be in charge of biologics production.

(c) The types of biologics to be produced.

(d) A full description of the building, its location, facilities, equipment, and apparatus to be used in biologics production.

(e) The name and address of each blood collection center operated by the applicant and whether the applicant operates any mobile units.

(f) Any additional information as the department may require.

SEC. 13. Section 1614 of the Health and Safety Code is amended to read:

1614. If the department does not within 60 days after the filing of the application issue a license, it shall state the grounds and reasons for its refusal in writing, serving a copy upon the applicant.

The notice may be served by registered mail addressed to the applicant at his last known address.

SEC. 14. Section 1616 of the Health and Safety Code is amended to read:

1616. Each application for a license or license renewal under this chapter shall be accompanied by a fee determined by the director by regulations and in an amount sufficient to cover the cost of administering this chapter but not to exceed those costs, as specified pursuant to Section 1616.5.

Each license issued under this chapter shall expire 12 months from the date of its issuance. Application for renewal of license accompanied by the fee shall be filed with the department not less than 10 days prior to the expiration each year. Failure to make a timely renewal shall result in expiration of the license.

SEC. 15. Section 1616.5 is added to the Health and Safety Code, to read:

1616.5. (a) The fee required pursuant to Section 1616 for the calendar year commencing January 1, 1992, and for each fiscal year thereafter unless adjusted pursuant to subdivision (b), shall not exceed the following:

One thousand five hundred dollars ($1,500) for a blood bank and no more than one blood collection center operated at the same location as the blood bank. In addition and irrespective of the location of the blood collection center, a fee of five hundred dollars ($500) for each additional blood collection center operated by the blood bank up to a maximum of one thousand five hundred dollars ($1,500) for three or more blood collection centers.

(b) The maximum application and renewal fees for blood bank licenses pursuant to subdivision (a) shall be adjusted annually in the manner specified in Section 113. The adjustments shall be rounded off to the nearest whole dollar.

(c) This chapter shall not be interpreted to exempt the state, a district, city, county, or city and county, from payment of fees or from meeting the requirements established pursuant to this chapter or regulations adopted thereunder.

SEC. 16. Section 1617 of the Health and Safety Code is amended to read:

1617. (a) The department shall administer this chapter.

(b) In order to carry out this chapter, any duly authorized representative of the department may do any of the following:

(1) Enter or inspect on an announced or unannounced basis any building, premise, equipment, materials, records, or information at any reasonable time to secure compliance with, or prevent a violation of, this chapter or the regulations adopted pursuant thereto.

(2) Inspect, photograph, or copy any records, reports, test results, test specimens, or other information related to the requirements of this chapter or the regulations adopted pursuant thereto.

(3) Secure any sample, photograph, or other evidence from any building or premise for the purpose of enforcing this chapter or the regulations adopted pursuant thereto.

SEC. 17. Section 1726.1 of the Health and Safety Code is amended to read:

1726.1. (a) Any licensed pharmacy engaged in providing,

pursuant to the order of a physician and surgeon, parenteral or enteral therapies administered by a licensed registered nurse employed, or whose services are arranged for, by the pharmacy, shall be exempt from the requirements of this chapter until January 1, 1993, or the effective date of regulations adopted by the state department pursuant to this chapter for these services, whichever occurs first.

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

SEC. 18. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 801

An act to amend Section 113 of, and to add Section 1644 to, to add Chapter 4.1 (commencing with Section 1635) to Division 2 of, to amend and renumber Section 1640 of, and to amend and renumber the heading of Chapter 4.1 (commencing with Section 1640) of Division 2 of, the Health and Safety Code, relating to tissue.

[Approved by Governor October 10, 1991. Filed with Secretary of State October 11, 1991]

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

SECTION 1. Section 113 of the Health and Safety Code is amended to read:

113. (a) The fees or charges for the issuance or renewal of any permit, license, registration, or document pursuant to Sections 403, 436.53, 527, 1017, 1616, 1639.5, 1676, 1677, 2202, 2805, 4083, 11887, 23013, 25049, 25059, 25064, 25079.3, 25094, 25628, 25694, 25696, 25697, 25812.8, 25816, 25817, 26262, 26506.2, 26593.2, 26593.4, 26688, 27010, 27011, 28126, 28410, 28411, and 28702 shall be adjusted annually by the percentage change printed in the Budget Act for those items appropriating funds to the state department. After the first annual adjustment of fees or charges pursuant to this section, the fees or charges subject to subsequent adjustment shall be the fees or charges for the prior calendar year. The percentage change shall be determined by the Department of Finance, and shall include at least

the total percentage change in salaries and operating expenses of the state department. However, the total increase in amounts collected under this section shall not exceed the total increased cost of the program or service provided.

(b) The state department shall publish annually a list of the actual numerical fee charges for each permit, license, certification, or registration governed by this section. This adjustment of fees and publication of the fee list shall not be subject to the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 2. Chapter 4.1 (commencing with Section 1635) is added to Division 2 of the Health and Safety Code, to read:

CHAPTER 4.1. TISSUE BANKS

Article 1. Definitions, Licensure, and Exceptions

1635. (a) "Donor" is an individual, living or deceased, from whom tissue is removed.

(b) "Person" is an individual, corporation, business trust, estate trust, partnership, association, state or local government, or subdivision or agency thereof, or any other legal entity.

(c) "Tissue" is any human cell, group of cells, tissue or organ including the cornea, sclera, or vitreous humor and other segments of, or the whole eye, bones, skin, arteries, sperm, blood, other fluids, and any other portion of a human body.

(d) "Tissue bank" is any place, establishment, or institution that collects, processes, stores, or distributes tissue for transplantation into human beings.

(e) "Transplantation" is the act or process of transferring tissue from a donor to the body of another human being.

(f) "State department" is the State Department of Health Services.

1635.1. (a) Except as provided in subdivision (b), every tissue bank operating in California on or after July 1, 1992, shall have a current and valid tissue bank license issued or renewed by the state department pursuant to Section 1639.2 or 1639.3.

(b) This chapter shall not apply to any of the following:

(1) The collection, processing, storage, or distribution of human whole blood or its derivatives by blood banks licensed pursuant to Chapter 4 (commencing with Section 1600) or any person exempt from licensure under that chapter.

(2) The collection, processing, storage, or distribution of tissue for autopsy, biopsy, training, education, or for other medical or scientific research or investigation, where transplantation of the tissue is not intended or reasonably foreseeable.

(3) The collection of tissue by an individual physician and surgeon from his or her patient or the implantation of tissue by an individual physician and surgeon into his or her patient. This exemption shall

not be interpreted to apply to any processing or storage of the tissue.

(4) The collection, processing, storage, or distribution of fetal tissue or tissue derived from a human embryo or fetus.

(5) The collection, processing, storage, or distribution by an organ procurement organization (OPO), as defined in Section 485.302 of Title 42 of the Code of Federal Regulations, if the OPO, at the time of collection, processing, storage, and distribution of the organ, has been designated by the Secretary of Health and Human Services as an OPO, pursuant to Section 485.305 of Title 42 of the Code of Federal Regulations, and meets the requirements of Sections 485.304 and 485.306 of Title 42 of the Code of Federal Regulations, as applicable.

(6) The storage of prepackaged, freeze-dried bone by a general acute care hospital.

1635.2. The Legislature hereby declares its intent that the collection, processing, storage, or distribution of tissue for the purpose of transplantation, as regulated by this chapter, shall be deemed a service by those persons engaged in these activities. Therefore, the collection, processing, storage, or distribution of tissue for the purpose of transplantation, as regulated by this chapter, shall not be subject to the requirements of Division 2 (commencing with Section 2101) of the Commercial Code.

Article 2. Regulation of Tissue Banks

1639. (a) The state department may adopt rules and regulations governing the administration and enforcement of this chapter.

(b) Regulations adopted by the state department may include minimum standards for the following:

(1) Safe preservation, transportation, storage, and handling of tissue acquired or used for transplantation.

(2) Testing of donors to determine compatibility when appropriate.

(3) Testing or assessment of donors to prevent the spread of disease through transplantation.

(4) Equipment.

(5) Methods.

(6) Personnel qualifications.

(7) Any other area concerning the operation or maintenance of a tissue bank, not inconsistent with this chapter, as may be necessary to carry out this chapter.

1639.1. Any person desiring a license issued pursuant to Section 1639.3 shall file with the state department a verified application on forms prescribed by the state department containing all of the following:

(a) The name of the applicant for licensure.

(b) The street address of the tissue bank. If more than one street address is occupied by the tissue bank, all occupied street addresses shall be listed.

(c) Whether the applicant is an individual, partnership, unincorporated association, or corporation.

(d) Whether the applicant does business under a fictitious name, and, if so, the fictitious name and the name of the locality wherein any fictitious name permit is filed.

(e) If the applicant is a partnership, the names of all the members of the partnership, or unincorporated association, whether general or limited.

(f) If the applicant is a corporation, the name of the officers, directors, shareholders holding a 5 percent or more interest in the corporation, and any person, partnership, or corporation who or which has the responsibility to manage or conduct the day-to-day operation of the tissue bank.

(g) The type of tissue collected, processed, stored, or distributed by the tissue bank.

(h) The names, titles, and qualifications of the persons responsible for the collection, processing, storage, or distribution of tissue by the tissue bank.

(i) Any process utilized by the tissue bank to ensure safe preservation, transportation, storage, and handling, of tissue acquired or used by the tissue bank.

(j) Any process utilized by the tissue bank to determine if, when appropriate, donors have been tested to determine compatibility.

(k) Any process utilized by the tissue bank to determine if donors have been tested or assessed for the transmission of disease through transplantation.

1639.2. (a) Each license issued pursuant to subdivision (a) of Section 1639.3 before July 1, 1992, shall expire July 1, 1993. Every other license issued pursuant to subdivision (a) of Section 1639.3 shall expire 12 months from the date of issuance.

(b) An application for renewal of a license issued pursuant to subdivision (a) of Section 1639.3 shall be filed with the state department not less than 30 days prior to its expiration date and shall be accompanied by the annual renewal fee required in Section 1639.5. Failure to make timely application or payment for renewal shall result by operation of law in expiration of the license on its expiration date.

(c) Upon application and payment of the required fee, a renewal license issued under subdivision (a) of Section 1639.3 shall be renewed for one- or two-year periods, at the option of the licensee, as long as the licensee has been found to be in substantial compliance with this chapter and the rules and regulations adopted under this chapter during the preceding license period.

(d) Any license issued pursuant to this chapter shall be forfeited by operation of law prior to its expiration date when one of the following occurs:

(1) The tissue bank is sold or otherwise transferred.

(2) The license is surrendered to the state department.

1639.3. (a) Upon the filing of the verified application for

licensure required by Section 1639.1, payment of the application fee in the amount required in Section 1639.5, and full compliance with this chapter and the rules and regulations adopted by the state department, the state department shall issue a license to operate a tissue bank to the applicant.

(b) If the state department finds that the applicant is not in compliance with this chapter or the rules or regulations adopted under this chapter, or if it finds that the applicant has acted in a manner which would justify the revocation or suspension of a tissue bank license as described in Section 1643, the license shall be denied.

(c) The state department may, prior to a determination under subdivision (a) that the applicant is in full compliance, but after the filing of a complete and verified application and payment of the application fee, issue a provisional license to operate a tissue bank to the applicant. The provisional license shall remain in effect until a license is either granted under subdivision (a) or denied under subdivision (b).

If this period is longer than a year from the date of filing the application for licensure, the applicant shall pay an additional annual fee of nine hundred fifty dollars ($950) in order for the provisional license to remain in effect for an additional one-year period. Failure to pay the additional annual fee shall result, by operation of law, in automatic expiration of the provisional license one year from the date of its original issuance. If the provisional license does so expire, the applicant may not continue to operate a tissue bank pending the department's determination of whether a license shall be granted or denied.

1639.4. Immediately upon the denial of any application for a license, the state department shall notify the applicant in writing. Within 20 days after the state department mails the notice, the applicant may present a written petition for a hearing to the state department. Upon receipt by the state department of the petition in proper form, the petition shall be set for hearing. The proceedings shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

1639.5. (a) The application and annual renewal fee for a tissue bank license shall be nine hundred fifty dollars ($950). Upon application for renewal of a license issued pursuant to subdivision (a) of Section 1639.3, the amount of the annual renewal fee required shall be determined by the period of time for which renewal is sought, which shall be either a one- or two-year period. The amount due shall be the amount prorated to the length of time the renewal is sought, based on the annual nine hundred fifty dollar ($950) fee.

(b) Notwithstanding subdivision (a), no license fee shall be required for any tissue bank operated by the state or any state agency or by a district, city, county, or city and county, or any subdivision or agency thereof.

1639.55. (a) There is hereby established in the State Treasury

the Tissue Bank License Fund. Notwithstanding any other provision of law, if, at the end of any fiscal year, the unencumbered balance in any account in the Tissue Bank License Fund exceeds 110 percent of the amount appropriated from the account for the following fiscal year, the state department shall reduce the application and annual renewal fees which are deposited into the account. The amount of the reduction shall be sufficient to reduce the unencumbered balance in the account at the end of the following fiscal year to less than 110 percent of the amount appropriated in that fiscal year. The adjustment of fees pursuant to this section shall not be subject to the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(b) The state department shall receive and account for all money received pursuant to this chapter and shall deposit it with the Treasurer who shall keep the money in the Tissue Bank License Fund.

(c) Moneys deposited to the credit of the Tissue Bank License Fund which are appropriated in the Budget Act or any other appropriation act for support of or expenditure by the state department shall be used by the state department to administer this chapter.

(d) Upon the request of the State Director of Health Services, the Director of Finance may make a loan to the Tissue Bank License Fund from funds appropriated from the General Fund for that purpose. The amount of any such loan shall be approved by the Director of Finance and be repaid under those terms and conditions as prescribed by the Director of Finance, but shall, in any event, be repaid not later than June 30, 1995.

1639.6. (a) In order to carry out the purpose of this chapter, any duly authorized representative of the department may do any of the following:

(1) Enter or inspect on an announced or unannounced basis any building, premise, equipment, materials, records, or information at any reasonable time to secure compliance with, or prevent a violation of, this chapter or the rules or regulations adopted by the state department.

(2) Inspect, photograph, or copy any records, reports, test results, test specimens, or other information related to the requirements of this chapter or the rules or regulations adopted by the state department.

(3) Secure any sample, photograph, or other evidence from any building or premise for the purpose of enforcing this chapter or the rules or regulations adopted by the state department.

(b) The state department may require licensed tissue banks to demonstrate satisfactory performance in a proficiency testing program approved by the state department in laboratory procedures which the tissue bank performs.

1641. Any person who violates this chapter or who willfully and repeatedly violates any rule or regulation adopted under this

chapter, is guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not to exceed one thousand dollars ($1,000) or by imprisonment in a county jail for a period not to exceed 180 days, or by both fine and imprisonment.

1641.1. The state department may bring an action to enjoin the violation or threatened violation of Section 1635.1 in the superior court in and for the county in which the violation occurred or is about to occur. Any proceeding under this section shall conform to the requirements of Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure, except that the state department shall not be required to allege facts necessary to show or tending to show lack of adequate remedy at law or irreparable damage or loss. With respect to any action brought pursuant to this section alleging actual violation of Section 1635.1, the court shall, if it finds the allegations to be true, issue its order enjoining the continuance of the violation.

Article 3. Suspension or Revocation of License

1643. The state department may suspend or revoke any license issued under this chapter for any of the following reasons:

(a) Violation by the licensee of this chapter or any rule or regulation adopted under this chapter.

(b) Aiding, abetting, or permitting the violation of any provision of this chapter, the rules or regulations adopted under this chapter or the Medical Practice Act (Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code).

(c) Proof that the licensee has made false statements in any material regard on the application for a tissue bank license.

(d) Conduct inimical to the public health, morals, welfare, or safety of the people of the State of California in the maintenance or operation of the premises or services for which a license is issued.

(e) Conduct prohibited under Section 367f of the Penal Code and under Section 274e of Title 42 of the United States Code.

(f) The conviction of a licensee or the person in charge of the tissue bank of any crime which is substantially related to the qualifications or duties of the licensee or the person in charge of the tissue bank or which is substantially related to the functions of the tissue bank. For purposes of this section, a conviction means a plea or verdict of guilty or a conviction following a plea of nolo contendere. An action to revoke or suspend the license may be taken when the time for appeal has elapsed or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, notwithstanding a subsequent order pursuant to Section 1203.4 of the Penal Code permitting withdrawal of a plea of guilty and entry of a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information or indictment. The director shall take into account all competent evidence of rehabilitation furnished by the

licensee or person in charge of the tissue bank.

1643.1. Proceedings for the suspension or revocation of licenses under this chapter shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the state department shall have all the powers granted therein.

1643.2. The state department may temporarily suspend any license issued under this chapter prior to any hearing, when it has determined that the action is necessary to protect the public welfare. The state department shall notify the licensee of the temporary suspension and the effective date thereof and at the same time shall serve the licensee with an accusation. Upon receipt of a notice of defense by the licensee, the matter shall, within 15 days, be set for hearing. The hearing shall be held as soon as possible but not later than 30 days after receipt of such notice. The temporary suspension shall remain in effect until such time as the hearing is completed and the state department has made a final determination on the merits. However, the temporary suspension shall be deemed vacated if the state department fails to make a final determination on the merits within 60 days after the original hearing has been completed.

SEC. 3. The heading of Chapter 4.1 (commencing with Section 1640) of Division 2 of the Health and Safety Code is amended and renumbered to read:

CHAPTER 4.2. DONATIONS OF ORGANS, TISSUES, OR BODY FLUIDS

SEC. 4. Section 1644 is added to the Health and Safety Code, to read:

1644. For purposes of this chapter, "donor," "person," "tissue," and "state department" shall have the meaning as defined for those terms in Section 1635.

SEC. 5. Section 1640 of the Health and Safety Code is amended and renumbered to read:

1644.5. (a) No tissues shall be transferred into the body of another person by means of transplantation, unless the donor of the tissues has been screened and found nonreactive by laboratory tests for evidence of infection with HIV, agents of viral hepatitis (HBV and HCV), human T lymphotrophic virus-1 (HTLV-1) and syphilis. The state department may adopt regulations requiring additional screening tests of donors or tissues when, in the opinion of the state department, the action is necessary for the protection of the public, donors, or recipients.

(b) Notwithstanding subdivision (a), infectious disease screening of blood and blood products shall be carried out solely in accordance with Article 2 (commencing with Section 1601) of Chapter 4.

(c) Subdivision (a) shall not apply to the transplantation of tissue from a donor who has not been tested or, with the exception of HIV, has been found reactive for the infectious diseases listed in

subdivision (a) or for which the state department has, by regulation, required additional screening tests, if both of the following conditions are satisfied:

(1) The physician and surgeon performing the transplantation has determined any one or more of the following:

(A) Without the transplantation the intended recipient will most likely die during the period of time necessary to obtain other tissue or to conduct the required tests.

(B) The intended recipient already is diagnosed with the infectious disease for which the donor has tested positive.

(C) The symptoms from the infectious disease for which the donor has tested positive will most likely not appear during the intended recipient's likely lifespan after transplantation with the tissue or may be treated prophylactically if they do appear.

(2) Consent for the use of the tissue has been obtained from the recipient, if possible, or if not possible, from a member of the recipient's family, or the recipient's legal guardian. For purposes of this section, "family" shall mean spouse, adult son or daughter, either parent, adult brother or sister, or grandparent.

(d) Tissues from donors who test reactive for agents of viral hepatitis, (HBV and HCV), human T lymphotrophic virus-1 (HTLV-1) or syphilis shall not be used in California for transplantation by means of therapeutic insemination or ingestion.

SEC. 6. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 802

An act to amend Section 30620 of, and to add Sections 30012and 30234.5 to, the Public Resources Code, relating to coastal resources.

[Approved by Governor October 10, 1991 Filed with Secretary of State October 11, 1991]

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

SECTION 1. Section 30012 is added to the Public Resources Code, to read:

30012. (a) The Legislature finds that an educated and informed citizenry is essential to the well-being of a participatory democracy

and is necessary to protect California's finite natural resources, including the quality of its environment. The Legislature further finds that through education, individuals can be made aware of and encouraged to accept their share of the responsibility for protecting and improving the natural environment.

(b) (1) The commission shall, to the extent that its resources permit, carry out a public education program that includes outreach efforts to schools, youth organizations, and the general public for the purpose of promoting understanding of, fostering a sense of individual responsibility for, and encouraging public initiatives and participation in programs for, the conservation and wise use of coastal and ocean resources. Emphasis shall be given to volunteer efforts such as the Adopt-A-Beach program.

(2) In carrying out this program, the commission shall coordinate with other agencies to avoid duplication and to maximize information sharing.

(c) The commission is encouraged to seek funding from any appropriate public or private source and may apply for and expend any grant or endowment funds for the purposes of this section without the need to specifically include funds in its budget. Any funding made available to the commission for these purposes shall be reported to the fiscal committee of each house of the Legislature at the time its budget is being formally reviewed.

(d) The commission is encouraged to seek and utilize interns for the purpose of assisting its regular staff in carrying out the purposes of this section and this division and, notwithstanding any other provision of law, may participate in any internship program the executive director determines to be appropriate. With respect to any internship program the commission uses, it shall make the best efforts to ensure that the participants in the program reflect the ethnic diversity of the state and are provided an educational and meaningful experience.

(e) The commission shall submit to each house of the Legislature an annual report describing the progress it is making in carrying out this section.

SEC. 2. Section 30234.5 is added to the Public Resources Code, to read:

30234.5. The economic, commercial, and recreational importance of fishing activities shall be recognized and protected.

SEC. 3. Section 30620 of the Public Resources Code is amended to read:

30620. (a) By January 30, 1977, the commission shall, consistent with the provisions of this chapter, prepare interim procedures for the submission, review, and appeal of coastal development permit applications and of claims of exemption. Such procedures shall include, but are not limited to, the following:

(1) Application and appeal forms.

(2) Reasonable provisions for notification to the commission and other interested persons of any action taken by a local government

pursuant to this chapter, in sufficient detail to assure that a preliminary review of such action for conformity with the provisions of this chapter can be made.

(3) Interpretive guidelines designed to assist local governments the commission, and persons subject to this chapter in determining how the policies of this division shall be applied in the coastal zone prior to certification of local coastal programs; provided, however, that the guidelines shall not supersede, enlarge, or diminish the powers or authority of the commission or any other public agency.

(b) Not later than May 1, 1977, the commission shall, after public hearing, adopt permanent procedures that include the components specified in subdivision (a) and those transmit a copy of such procedures to each local government within the coastal zone and shall make them readily available to the public. The commission may thereafter, from time to time, and, except in cases of emergency, after public hearing, modify or adopt additional procedures or guidelines as it determines to be necessary to better carry out this division.

(c) The commission may require a reasonable filing fee and the reimbursement of expenses for the processing by the commission of any application for a coastal development permit under this division and, except for local coastal program submittals, for any other filing, including, but not limited to, a request for revocation, categorical exclusion, or boundary adjustment, submitted for review by the commission. The funds received under this subdivision shall be expended by the commission only when appropriated by the Legislature.

CHAPTER 803

An act to amend Sections 320.5 and 321.7 of the Health and Safety Code, relating to health, and making an appropriation therefor.

[Approved by Governor October 10, 1991 Filed with Secretary of State October 11, 1991.]

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

SECTION 1. Section 320.5 of the Health and Safety Code is amended to read:

320.5. A State Maternal, Child, and Adolescent Health Board advisory to the director is hereby established within the State Department of Health Services.

The state board shall consist of 13 voting members. The membership shall reflect the ethnic and geographic diversity of the State of California and shall include individuals or parents of individuals who are recipients of services administered by the department, health providers, including Medical Board of California

certified or qualified physicians, and representatives of other related interests. The Governor shall appoint seven members of the state board, including a county health officer; a member of the Primary Care Clinics Advisory Committee; one family practice physician; one dentist a major part of whose practice is children's dentistry; one pediatrician; one representative of a child health advocacy organization; and one parent, who is not a health care provider, of a child eligible for health services administered by the department. The Senate Rules Committee shall appoint three members of the state board, including a pediatrician, and a parent, who is not a health care provider, of a child eligible for health services administered by the department, and an individual experienced in administering a local family planning agency. The Speaker of the Assembly shall appoint three members of the state board, including a pediatrician, a nurse specializing in child health, and an obstetrician/gynecologist. A member of the State Council on Developmental Disabilities, a member of the State Commission on Special Education, the Directors of the Departments of Health Services, Mental Health, and Social Services and the Superintendent of Public Instruction, or their designees, shall serve as ex officio, nonvoting members of the state board. The term of each member shall be three years, or for the duration that each member maintains the qualifications under which he or she was appointed, whichever is shorter.

The members of the state board shall serve without compensation but shall be reimbursed for any actual and necessary expenses incurred in connection with the performance of their duties under this article. Members who are parents of children eligible for departmental programs may additionally be reimbursed upon request for their actual and necessary costs of additional child care and lost wages. The State Department of Health Services shall provide necessary support staff and services to the state board. The state board shall utilize available department staff to carry out specific tasks enumerated in this article. The state board may hire staff for special projects provided the total budget level for board operations does not exceed the existing level, except as provided for by the director or the Legislature by statute.

The state board shall select its own chairperson from among the 13 appointed members by majority vote of the members and shall establish technical advisory committees as it deems necessary and desirable for the efficient and expeditious performance of its duties. The director may provide or the state board may request that the director provide additional technical experts and consultants to facilitate and support the work of the state board. The state board shall meet on call of the chairperson, at least once quarterly, or as often as necessary to fulfill its duties. All meetings and records of the state board shall be open to the public.

The state board shall have all of the following powers, duties and responsibilities:

(a) Recommend that independent studies, investigations, and

hearings on the health of women, children, and adolescents and the system of health services for women, children, and adolescents be conducted.

(b) Review health programs which serve women, children, and adolescents and recommend steps to facilitate service delivery.

(c) Identify deficiencies and barriers in the maternal, child, and adolescent health delivery system on a statewide basis, and recommend priorities for remedy.

(d) Review, during the development stage, any plans developed by the department for establishment of new or for major revision to, existing health programs for women, children, and adolescents and make recommendations on those plans.

(e) Receive from the department for review and comment, prior to their adoption and prior to public hearing if a public hearing is required, rules, regulations, and standards affecting maternal, child, and adolescent health. These may include, but not be limited to, the following:

(1) Review of standards for health screening, evaluation, and diagnostic procedures for community maternal, child, and adolescent health programs.

(2) Review of standards for directors of community maternal, child, and adolescent health programs.

(3) Review of standards for public and private health providers, facilities, and agencies which participate in community maternal, child, and adolescent health programs.

(f) Review and comment upon any proposed written department policies that would have a significant effect on maternal, child, and adolescent health programs as determined by the board.

(g) Review policies and develop recommendations regarding:

(1) Health goals with measurable objectives for women, children and adolescents in California.

(2) Range of services currently available and systems to assure coordination of services for women, children, and adolescents, including fiscal aspects thereof.

(h) Review reports and respond to needs and recommendations of the local boards.

(i) Work with local boards to evaluate the success of established programs and assess the potential viability of proposed programs.

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

SEC. 2. Section 321.7 of the Health and Safety Code is amended to read:

321.7. Local maternal, child, and adolescent health boards are hereby established to advise governing bodies and local health officers on local programs and services affecting the health of women, children, and adolescents. The local board shall be appointed by the governing body and shall reflect the demographic

and ethnic characteristics of the geographic area served. A governing body may constitute local boards on a subcounty basis or the governing boards of more than one area may constitute boards on a multicounty basis, as appropriate. Local boards shall supersede and incorporate the local child health and disability prevention program advisory board and may supersede and incorporate any other bodies advisory to local government on maternal, child, and adolescent health programs. Each local board shall include individuals who are eligible or who are parents of children eligible for health services administered by the department, representatives from health professions and organizations concerned with maternal, child, and adolescent health, a school health representative, members of existing local groups advisory to maternal, child, and adolescent health programs in the jurisdiction, and other individuals interested in the health of women, children, and adolescents.

The local health officer, or officers in the case of a multicounty board, shall be responsible for providing support staff and services to the local board from state or federal funding presently utilized for planning and organizing maternal, child, and adolescent health services. Counties shall not be required to expend more funds than presently are being expended for the purpose of this section and shall include the costs in any annual maternal, child, and adolescent health plan is required for department approval. Local board members shall serve without compensation, except that members shall be reimbursed for actual and necessary expenses incurred in connection with the performance of their duties. Members may additionally be reimbursed upon request to the appropriate governing body for their actual and necessary additional costs of child care and lost wages.

Each local board shall have all of the following powers, duties, and responsibilities:

(a) Review the community's maternal, child, and adolescent health needs and the adequacy of health care services, programs, providers, and facilities to meet those needs.

(b) Review and comment during the development and adoption of the required annual local maternal and child health services plan. The plan shall address strategies for coordinating and integrating local maternal, child, and adolescent health programs and planning processes.

(c) Advise the appropriate governing body or bodies and local health officer or officers on methods of integration at the local level of categorical programs affecting the health of women, children, and adolescents, including, but not limited to:

(1) Proposing specific models, including funding levels, which integrate maternal and child health services at the local level which are consistent with state guidelines and the local maternal and child health plan.

(2) Disseminating information on and recommending uses of block grant funding or other financing methods which may be made

available to the local jurisdiction.

(3) Monitoring and evaluating model integrated delivery systems as to outcome and cost-effectiveness, and recommending termination or continuation of the models based on the review.

(d) Review local health statistics and program data to assess improvement in the overall health status of women, children, and adolescents.

(e) Provide formal written input on local maternal, child and adolescent health services and needs to the local health planning agencies for inclusion in plans for health services and local proposed use of available funds.

(f) Determine the concerns of consumers and local service providers in regard to maternal, child, and adolescent health.

(g) Provide input to the state board to assure that policy advice given to the department reflects local needs.

(h) Review and comment to the governing body on local implications of reports, recommendations and actions of the state board. Local individuals and organizations may respond to the actions of the local board in their jurisdiction by submitting written comments to the appropriate governing body or bodies and the appropriate local health officer or officers.

The local board may also perform any other duties relating to maternal, child, and adolescent child health which may be delegated to it by the appropriate governing body or bodies.

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

SEC. 3. (a) To the extent permitted by federal law, the sum of three hundred thousand dollars ($300,000) is hereby appropriated from federal Maternal and Child Health Services Block Grant funds carried over from prior fiscal years, which are available for expenditure during the 1991–92 fiscal year and not otherwise appropriated in the Budget Act of 1991, to the State Department of Health Services for expenditure during the 1991–92 fiscal year for school-based clinics.

(b) The State Department of Health Services shall allocate funds made available by this section to existent school-based clinics that the state department determines provide comprehensive health services to adolescents that would otherwise not be received by those adolescents, at no cost or at a low cost. "Health services" for purposes of this section, include, but are not limited to, general physical exams, disease screenings, and comprehensive primary and preventive health care services.

(c) Funds appropriated pursuant to this section shall be used solely to develop the capacity of school-based clinics to find a permanent source of funding for ongoing operations through third-party payers or other means.

SEC. 4. It is the intent of the Legislature that this act authorizes

no further appropriations from federal Maternal and Child Health Services Block Grant funds other than the appropriation pursuant to Section 3.

SEC. 5. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 804

An act to amend Section 65352 of the Government Code, relating to local planning.

[Approved by Governor October 10, 1991 Filed with Secretary of State October 11, 1991]

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

SECTION 1. Section 65352 of the Government Code is amended to read:

65352. Prior to action by a legislative body to adopt or substantially amend a general plan, the planning agency shall refer the proposed action to all of the following entities:

(a) Any city or county, within or abutting the area covered by the proposal, and any special district which may be significantly affected by the proposed action, as determined by the planning agency.

(b) Any elementary, high school, or unified school district within the area covered by the proposed action.

(c) The local agency formation commission.

(d) Any areawide planning agency whose operations may be significantly affected by the proposed action, as determined by the planning agency.

(e) Any federal agency if its operations or lands within its jurisdiction may be significantly affected by the proposed action, as determined by the planning agency.

Each entity receiving a proposed general plan or amendment of a general plan pursuant to this section shall have 45 days from the date the referring agency mails it or delivers it in which to comment unless a longer period is specified by the planning agency.

This section is directory, not mandatory, and the failure to refer a

proposed action to the other entities specified in this section does not affect the validity of the action, if adopted.

To the extent that the requirements of this section conflict with the requirements of Chapter 4.4 (commencing with Section 65919), the requirements of Chapter 4.4 shall prevail.

SEC. 2. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 805

An act to add Section 25180.1 to, and to add Article 8.6 (commencing with Section 25198.1) to Chapter 6.5 of Division 20 of, the Health and Safety Code, and to add Section 45002.1 to, and to add Article 4 (commencing with Section 44201) to Chapter 3 of Part 4 of Division 30 of, the Public Resources Code, relating to waste.

[Approved by Governor October 10, 1991 Filed with Secretary of State October 11, 1991]

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

SECTION 1. The Legislature finds and declares all of the following:

(a) The state contains within its borders 108 Native American Indian reservations and rancherias. They range in land area from thousands of acres to 1.3 acres. The latest United States census noted populations ranging from the thousands on a few reservations to zero inhabitants on 10 reservations.

(b) As part of a program of economic development, some tribes have proposed to develop portions of their lands as solid or hazardous waste management facilities for the recycling, disposal, treatment, or storage of wastes on those lands. Natural resources at risk of being contaminated, such as water and air supplies, are common to both Native American reservations and surrounding lands. Once polluted, they are difficult to clean up and threaten the public health and economies of both Native Americans and surrounding communities.

(c) Economic conditions in Indian country are of concern to both Native Americans and the state. The state desires to encourage tribal

economic development that does not conflict with other state policies, such as those mandating comprehensive regulation of waste treatment and storage facilities. The state's regulations regarding these facilities are in some cases more strict than federal standards governing the same field, and thus the state has an interest in ensuring that all facilities within its borders meet or exceed state standards for environmental protection.

(d) The Legislature further finds that these facilities, which are unregulated by state enforcement agencies, could cause adverse environmental "spillover effects," contaminating surface and groundwater, soil, and air used by citizens of the state both on and off reservation and rancheria lands.

(e) The Legislature finds that the state has a compelling interest in asserting authority over these waste disposal facilities to the extent that this jurisdiction is not preempted by federal law.

(f) The state recognizes that there are disagreements as to whether the state may regulate waste management facilities on Indian country. Many Native American communities believe that these issues are not subject to state jurisdiction, whereas the state believes it does have the authority to regulate these facilities. However, the state wishes to avoid jurisdictional conflicts with tribal authorities where possible. In furtherance of this goal, and to promote a spirit of cooperation, the state intends to enter into voluntary enforceable cooperative agreements with individual tribes which provide for adoption by a tribe of permitting, monitoring, enforcement, and other regulatory systems for waste facilities on tribal lands which are at least as protective of public health and safety and the environment as the system provided under state law.

(g) The Legislature finds that Californians living adjacent to Indian country should receive at least the same environmental protections as those provided all Californians.

SEC. 2. Section 25180.1 is added to the Health and Safety Code, to read:

25180.1. For purposes of this chapter, "permit" includes matters deemed to be permits pursuant to subdivision (c) of Section 25189.6.

SEC. 3. Article 8.6 (commencing with Section 25198.1) is added to Chapter 6.5 of Division 20 of the Health and Safety Code, to read:

Article 8.6. Development of Hazardous Waste Management Facilities on Indian Country

25198.1. As used in this article, unless the context clearly indicates otherwise, the following definitions apply:

(a) "Indian country" has the same meaning as set forth in Section 1151 of Title 18 of the United States Code.

(b) "Tribe" means an Indian tribe, band, nation, or other organized group or community, or a tribal agency authorized by a tribe as defined herein, which is recognized as eligible for special programs and services provided by the United States to Indians

because of their status as Indians and is identified on pages 52829 to 52835, inclusive, of Number 250 of Volume 53 (December 29, 1988) of the Federal Register, as that list may be updated or amended from time to time.

(c) "Hazardous waste" has the same meaning as set forth in Sections 25117 and 25117.9.

(d) "Hazardous waste facility" has the same meaning as set forth in Section 25117.1.

(e) "Operator" means a person who operates a hazardous waste facility.

(f) "Owner" means a person who owns a hazardous waste facility.

(g) "Secretary" means the Secretary for Environmental Protection.

(h) "State" means the State of California and any agency or instrumentality thereof.

(i) "Siting" means the physical suitability of a location proposed for a hazardous waste facility.

25198.2. (a) Upon receipt of a written request from any tribe considering a proposal to construct each hazardous waste facility in that tribe's Indian country within this state, the secretary shall convene negotiations for purposes of reaching a cooperative agreement pursuant to this article, which will define the respective rights, duties, and obligations of the state and the tribe concerning the approval, development, and operation of the facility. In convening the negotiations, the secretary shall consult with the Department of Toxic Substances Control, the State Water Resources Control Board, the appropriate California regional water quality control board, the State Air Resources Board, and the appropriate air pollution control district or air quality management district.

(b) This article does not apply to any facility located on Indian country within the state if it meets all of the following requirements:

(1) The facility is owned and operated solely by a tribe.

(2) All hazardous waste accepted by the facility is generated by that particular tribe.

(3) The United States Environmental Protection Agency has approved the facility.

25198.3. (a) The secretary may enter into any cooperative agreement which meets the requirements of this article.

(b) Each cooperative agreement shall include, but shall not be limited to, all requirements determined to be necessary to meet the requirements of subdivision (e) to do all of the following:

(1) Protect water quality, as determined by the State Water Resources Control Board or the appropriate California regional water quality control board.

(2) Protect air quality, as determined by the State Air Resources Board or the appropriate air pollution control officer.

(3) Provide for proper management of hazardous materials and hazardous wastes, as determined necessary by the Department of Toxic Substances Control.

(4) In making these determinations, the state agencies shall consider any applicable federal environmental and public health and safety laws.

(c) A decision by the secretary whether to enter into such an agreement shall be based on a good faith determination concerning whether a proposed cooperative agreement meets the requirements of this article. The secretary shall take this action within 130 days of a written request by the tribe that the secretary approve a draft cooperative agreement. At least 60 days prior to determining whether to enter into such an agreement, the secretary shall provide notice, and make available for public review and comment, drafts of his or her proposed action and drafts of the findings and determinations that are required by this section. The secretary shall hold a public hearing in the affected area on the proposed action within the time period for taking that action, as specified in this section. Within 10 days after the close of the public review and comment period, the agencies shall complete the determinations required by this section and the secretary shall issue a final decision.

(d) The findings and determinations of the secretary and relevant agencies made pursuant to this section shall explain material differences between state laws and regulations and the proposed tribal or federal functionally equivalent provisions. The findings and determinations do not need to explain each difference between the state and tribal or federal requirements as long as they identify and evaluate whether the material differences meet the requirements of this article, including, but not limited to, providing at least as much protection for public health and safety and the environment as would the state requirements.

(e) Any cooperative agreement executed pursuant to this article shall provide for regulation of the hazardous waste facility through inclusion in the agreement of design, permitting, construction, siting, operation, monitoring, inspection, closure, postclosure, liability, enforcement, and other regulatory provisions applicable to a hazardous waste facility, or which relate to any environmental consequences that may be caused by facility construction or operation, that are functionally equivalent to all of the following:

(1) Article 4 (commencing with Section 13260) of Chapter 4 of, Chapter 5 (commencing with Section 13300) of, and Chapter 5.5 (commencing with Section 13370) of, Division 7 of the Water Code.

(2) Chapter 3 (commencing with Section 41700) of, Chapter 4 (commencing with Section 42300) of, and Chapter 5 (commencing with Section 42700) of, Part 4 of, and Part 6 (commencing with Section 44300) of, Division 26 of the Health and Safety Code.

(3) This chapter, Chapter 6.6 (commencing with Section 25249.5), Chapter 6.8 (commencing with Section 25300), and Chapter 6.95 (commencing with Section 25500).

(4) All regulations adopted pursuant to the statutes specified in this section.

(5) Any other provision of state environmental and public health

and safety laws and regulations germane to the hazardous waste facility proposed by the tribe.

(f) The tribal organizational structures or other means of implementing the requirements specified in subdivision (e) are not required to be the same as the state organizational structures or means of implementing its system of regulation.

(g) Neither the approval of any cooperative agreement nor amendments to the agreement, nor any determination of sufficiency provided in Section 25198.5, shall constitute a "project" as defined in Section 21065 of the Public Resources Code and shall not be subject to review pursuant to the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

(h) Each cooperative agreement shall provide for the incorporation of the standards and requirements germane to the protection of the environment, public health, and safety listed in subdivision (e), as enacted, or as those provisions may be amended after the effective date of the act adding this section, or after the effective date of any cooperative agreement, if those standards and requirements meet both of the following requirements:

(1) The standards and requirements do not discriminate against a tribe which has executed a cooperative agreement, or a lessee of the tribe, and is applicable to, or not more stringent than, other rules applicable to other similar or analogous facilities or operations outside Indian country.

(2) Adequate notice and opportunity for comment on the incorporation of new and amended standards or requirements is provided to the tribe, facility owner, and operator to facilitate any physical or operational changes in the facility in accordance with state law.

25198.4. (a) A tribe shall be eligible for technical assistance to the extent feasible, from the agencies specified in subdivision (b) of Section 25198.3, for the design, establishment, and implementation of a permit system, cooperative monitoring programs, a tribal enforcement system, and implementation of any other regulatory requirement.

(b) Each cooperative agreement shall provide for reasonable compensation to relevant state agencies for costs and expenses incurred by the state in connection with technical assistance provided to the tribe for the regulatory activities provided in this article, including, but not limited to, monitoring, enforcement, permitting, review, and other activities described in this article, and the reviews required by Section 25198.3, on a nondiscriminatory basis when compared with similar services to similar projects outside of Indian country.

(c) Each cooperative agreement shall provide for the sharing of appropriate data and other information between any tribal regulatory body, any federal agency, the owner or operator, and applicable state agencies, including, but not limited to, all

monitoring data collected respecting the hazardous waste facility. The agreement shall provide for confidentiality of privileged, proprietary, or trade secret information.

(d) Each cooperative agreement shall include a dispute resolution mechanism for addressing issues of contract interpretation arising out of the cooperative agreement.

(e) The parties to a cooperative agreement executed pursuant to this article may mutually agree to modifications of time periods for actions which are required by this article, except the time periods provided for public notice, review, and comment shall not be eliminated or reduced.

(f) Each cooperative agreement shall require the relevant state agencies to provide detailed comments regarding completeness within 30 days after receiving copies of applications filed for tribal and applicable federal permits with respect to the deficiencies, if any, of the application with respect to the state standards identified in Section 25198.3. The failure of any of these state agencies to provide those comments within that period shall be deemed a finding of completeness of the respective applications.

(g) Each cooperative agreement shall provide for reasonable access by state agency personnel to Indian country governed by a tribe which has executed a cooperative agreement pursuant to this article for purposes of assistance with permit application review, inspection, and monitoring of operation of a hazardous waste facility. The cooperative agreement shall also provide for reasonable access for purposes of permit application review and inspection, to the extent the state can provide that access, by tribal regulatory authorities to transfer stations, or similar facilities, located outside of Indian country and handling waste to be transferred to tribal lands.

25198.5. (a) Each cooperative agreement shall require the public agencies specified in subdivision (b) of Section 25198.3 to review any draft tribal permit and any applicable federal permit to determine whether it contains all conditions sufficient to do all of the following:

(1) Meet the functionally equivalent standards provided in the cooperative agreement, as required by subdivision (c) of Section 25198.3.

(2) Provide not less than the level of protection for public health, safety, and the environment that would have been the case if that state agency had issued the permit.

(3) Implement all feasible mitigation measures. For purposes of this paragraph, the term "feasible" has the same meaning as in Sections 21001, 21002.1, and 21004 of the Public Resources Code, and any regulations adopted pursuant to those sections.

(b) Each cooperative agreement shall provide that the tribal or federal permits issued for the hazardous waste facility meet the requirements of this section.

(c) The failure of either party to this agreement to meet the requirements of this section shall be determined to be an actionable

breach of the cooperative agreement.

(d) The election by either party to a cooperative agreement to pursue a contractual remedy shall not limit the ability of either party to assert their respective claims of jurisdiction or sovereign immunity.

(e) Entering into the cooperative agreement shall not be a basis for denying any remedy to which a party is otherwise entitled.

(f) Within 10 days of issuance of a final federal permit or tribal permit, a copy of that permit shall be provided to the California Environmental Protection Agency and the tribe having jurisdiction over the facility.

25198.6. (a) Nothing in this article shall limit or expand, or be construed to limit or expand, the jurisdiction of any state agency specified in subdivision (b) of Section 25198.3 or any tribal agency with respect to any hazardous waste facility located in Indian country, including, but not limited to, the enforcement powers and procedures available to the state or any tribe with respect to those facilities to the extent not preempted by federal law, including, but not limited to, powers and procedures contained in state or tribal statutes or regulations.

(b) The cooperative agreement shall provide that the state may exercise its enforcement powers over any hazardous waste facility project on Indian country where a cooperative agreement has been executed, subject to all of the following requirements:

(1) A violation or threatened violation of any standard or requirement set forth in Section 25198.3, or its functional equivalent in the cooperative agreement, or any condition set forth in a cooperative agreement or permit for the facility, has occurred or is occurring. For purposes of this paragraph, "threatened violation" means a condition creating a substantial probability of harm, when the probability and potential extent of harm make it reasonably necessary to take immediate action to prevent, reduce, or mitigate damages to persons, property, or natural resources.

(2) The violation or violations have been brought to the attention of the tribe and to the owner and operator of the hazardous waste facility, through written notice from the appropriate agency. The notice shall identify the specific violation or violations which are occurring or have occurred and a specific corrective or enforcement action or range of actions, including sufficient penalties. The notice shall include a specific and reasonable timeframe in which to take appropriate corrective or enforcement action.

(3) The tribe, after receiving the notice, has failed to take the action or actions, or to take other reasonable action to abate or correct the violation or violations, in a reasonable time.

(c) The functionally equivalent provisions of tribal or federal permits, as determined sufficient pursuant to Section 25198.3, together with any cooperative agreement approved pursuant to this article, shall collectively be deemed to constitute permits issued under state law for all purposes of enforcing state law.

(d) Notwithstanding subdivision (a), each of the public agencies specified in subdivision (b) of Section 25198.3 may immediately exercise its enforcement powers over any hazardous waste facility project on Indian country where a cooperative agreement has been executed, if, in the judgment of the public agency, immediate state action is required to avoid an imminent and substantial threat to public health and safety or to the environment. The state shall notify the tribe prior to taking any action pursuant to this subdivision.

25198.7. (a) The cooperative agreement shall provide that the state or tribe may bring an appropriate civil action in a court of competent jurisdiction to enforce the terms of the cooperative agreement as a contract, and shall not limit the availability to either party of any remedy at law or in equity otherwise available under California law.

(b) The cooperative agreement shall require that the tribe waive its sovereign immunity from any action brought by the state in any court otherwise having jurisdiction over the subject matter, and that the state shall waive its sovereign immunity from any action brought by the tribe, in any court otherwise having jurisdiction over the subject matter, to enforce the terms of the cooperative agreement.

25198.8. A cooperative agreement executed pursuant to this article shall be executed for the express benefit of the citizens of this state.

25198.9. Any person may commence a civil action on the person's own behalf against any of the public agencies specified in subdivision (b) of Section 25198.3, or against the secretary, who is alleged to have approved or certified the sufficiency of any cooperative agreement or permit in violation of this article. No action may be commenced under this section more than 60 days after the agency or secretary has approved or certified the sufficiency of any cooperative agreement or permit under this article.

SEC. 4. Article 4 (commencing with Section 44201) is added to Chapter 3 of Part 4 of Division 30 of the Public Resources Code, to read:

Article 4. Development of Solid Waste Management Facilities on Indian Country

44201. As used in this article, unless the context clearly indicates otherwise, the following definitions apply:

(a) "Indian country" has the same meaning as set forth in Section 1151 of Title 18 of the United States Code.

(b) "Tribe" means an Indian tribe, band, nation, or other organized group or community, or a tribal agency authorized by a tribe as defined herein, which is recognized as eligible for special programs and services provided by the United States to Indians because of their status as Indians and is identified on pages 52829 to 52835, inclusive, of Number 250 of Volume 53 (December 29, 1988) of the Federal Register, as that list may be updated or amended from

time to time.

(c) "Solid waste" has the same meaning as set forth in Section 40191.

(d) "Solid waste facility" has the same meaning as set forth in Section 40194.

(e) "Operator" means a person who operates a solid waste facility.

(f) "Owner" means a person who owns a solid waste facility.

(g) "Secretary" means the Secretary for Environmental Protection.

(h) "State" means the State of California and any agency or instrumentality thereof.

(i) "Siting" means the physical suitability of a location proposed for a hazardous waste facility.

44202. (a) Upon receipt of a written request from any tribe considering a proposal to construct each solid waste facility in that tribe's Indian country within this state, the secretary shall convene negotiations for purposes of reaching a cooperative agreement pursuant to this article, which will define the respective rights, duties, and obligations of the state and the tribe concerning the approval, development, and operation of the facility. In convening the negotiations, the secretary shall consult with the California Integrated Waste Management Board, the State Water Resources Control Board, the appropriate California regional water quality control board, the State Air Resources Board, and the appropriate air pollution control district or air quality management district.

(b) This article does not apply to any facility located on Indian country within the state if it meets all of the following requirements:

(1) The facility is owned and operated solely by a tribe.

(2) All solid waste accepted by the facility is generated by that particular tribe.

(3) Appropriate federal agencies have approved the facility.

44203. (a) The secretary may enter into any cooperative agreement which meets the requirements of this article.

(b) Each cooperative agreement shall include, but shall not be limited to, all requirements determined to be necessary to meet the requirements of subdivision (e) to do all of the following:

(1) Protect water quality, as determined by the State Water Resources Control Board or the appropriate California regional water quality control board.

(2) Protect air quality, as determined by the State Air Resources Board or the appropriate air pollution control officer.

(3) Provide for proper management of solid wastes, as determined necessary by the California Integrated Waste Management Board.

(4) In making these determinations, the state agencies shall consider any applicable federal environmental and public health and safety laws.

(c) A decision by the secretary whether to enter into such an agreement shall be based on a good faith determination concerning

whether a proposed cooperative agreement meets the requirements of this article. The secretary shall take this action within 130 days of a written request by the tribe that the secretary approve a draft cooperative agreement. At least 60 days prior to determining whether to enter into such an agreement, the secretary shall provide notice, and make available for public review and comment drafts, of his or her proposed action and drafts of the findings and determinations that are required by this section. The secretary shall hold a public hearing in the affected area on the proposed action within the time period for taking that action, as specified, in this section. Within 10 days after the close of the public review and comment period, the agencies shall complete the determinations required by this section and the secretary shall issue a final decision.

(d) The findings and determinations of the secretary and relevant agencies made pursuant to this section shall explain material differences between state laws and regulations and the proposed tribal or federal functionally equivalent provisions. The findings and determinations do not need to explain each difference between the state and tribal or federal requirements as long as they identify and evaluate whether the material differences meet the requirements of this article, including, but not limited to, providing at least as much protection for public health and safety and the environment as would the state requirements.

(e) Any cooperative agreement executed pursuant to this article shall provide for regulation of the solid waste facility through inclusion in the agreement of design, permitting, construction, siting, operation, monitoring, inspection, closure, postclosure, liability, enforcement, and other regulatory provisions applicable to a solid waste facility, or which relate to any environmental consequences that may be caused by facility construction or operation, that are functionally equivalent to all of the following:

(1) Article 4 (commencing with Section 13260) of Chapter 4 of, Chapter 5 (commencing with Section 13300) of, and Chapter 5.5 (commencing with Section 13370) of, Division 7 of the Water Code.

(2) Chapter 3 (commencing with Section 41700) of, Chapter 4 (commencing with Section 42300) of, and Chapter 5 (commencing with Section 42700) of, Part 4 of, and Part 6 (commencing with Section 44300) of, Division 26 of the Health and Safety Code.

(3) This division.

(4) All regulations adopted pursuant to the statutes specified in this section.

(5) Any other provision of state environmental, public health, and safety laws and regulations germane to the solid waste facility proposed by the tribe.

(f) The tribal organizational structures or other means of implementing the requirements specified in subdivision (e) are not required to be the same as the state organizational structures or means of implementing its system of regulation.

(g) Neither the approval of any cooperative agreement nor

amendments to the agreement, nor any determination of sufficiency provided in Section 25198.5, shall constitute a "project" as defined in Section 21065 and shall not be subject to review pursuant to the California Environmental Quality Act (Division 13 (commencing with Section 21000)).

(h) Each cooperative agreement shall provide for the incorporation of the standards and requirements germane to the protection of the environment, public health, and safety listed in subdivision (e), as enacted, or as those provisions may be amended after the effective date of the act adding this section, or after the effective date of any cooperative agreement, if those standards and requirements meet both of the following requirements:

(1) The standards and requirements do not discriminate against a tribe which has executed a cooperative agreement, or a lessee of the tribe, and is applicable to, or not more stringent than, other rules applicable to other similar or analogous facilities or operations outside Indian country.

(2) Adequate notice and opportunity for comment on the incorporation of new and amended standards or requirements is provided to the tribe, facility owner, and operator to facilitate any physical or operational changes in the facility in accordance with state law.

44204. (a) A tribe shall be eligible for technical assistance to the extent feasible, from the agencies specified in subdivision (b) of Section 44203, for the design, establishment, and implementation of a permit system, cooperative monitoring programs, a tribal enforcement system, and implementation of any other regulatory requirement.

(b) Each cooperative agreement shall provide for reasonable compensation to relevant state agencies for costs and expenses incurred by the state in connection with technical assistance provided to the tribe for the regulatory activities provided in this article, including, but not limited to, monitoring, enforcement, permitting, review, and other activities described in this article, and the reviews required by Section 44203, on a nondiscriminatory basis when compared with similar services to similar projects outside of Indian country.

(c) Each cooperative agreement shall provide for the sharing of appropriate data and other information between any tribal regulatory body, any federal agency, the owner or operator, and applicable state agencies, including, but not limited to, all monitoring data collected respecting the solid waste facility. The agreement shall provide for confidentiality of privileged, proprietary, or trade secret information.

(d) Each cooperative agreement shall include a dispute resolution mechanism for addressing issues of contract interpretation arising out of the cooperative agreement.

(e) The parties to a cooperative agreement executed pursuant to this article may mutually agree to modifications of time periods for

actions which are required by this article, except the time periods provided for public notice, review, and comment shall not be eliminated or reduced.

(f) Each cooperative agreement shall require the relevant state agencies to provide detailed comments regarding completeness within 30 days after receiving copies of applications filed for tribal and applicable federal permits with respect to the deficiencies, if any, of the application with respect to the state standards identified in Section 44203. The failure of any of these state agencies to provide those comments within that period shall be deemed a finding of completeness of the respective applications.

(g) Each cooperative agreement shall provide for reasonable access by state agency personnel to Indian country governed by a tribe which has executed a cooperative agreement pursuant to this article for purposes of assistance with permit application review, inspection, and monitoring of operation of a solid waste facility. The cooperative agreement shall also provide for reasonable access for purposes of permit application review and inspection, to the extent the state can provide that access, by tribal regulatory authorities to transfer stations, or similar facilities, located outside of Indian country and handling waste to be transferred to tribal lands.

44205. (a) Each cooperative agreement shall require the public agencies specified in subdivision (b) of Section 44203 to review any draft tribal permit and any applicable federal permit to determine whether it contains all conditions sufficient to do all of the following:

(1) Meet the functionally equivalent standards provided in the cooperative agreement, as required by subdivision (c) of Section 44203.

(2) Provide not less than the level of protection for public health, safety, and the environment that would have been the case if that state agency had issued the permit.

(3) Implement all feasible mitigation measures. For purposes of this paragraph, "feasible" has the same meaning as in Sections 21001, 21002.1, and 21004, and any regulations adopted pursuant to those sections.

(b) Each cooperative agreement shall provide that the tribal or federal permits issued for the solid waste facility meet the requirements of this section.

(c) The failure of either party to this agreement to meet the requirements of this section shall be determined to be an actionable breach of the cooperative agreement.

(d) The election by either party to a cooperative agreement to pursue a contractual remedy shall not limit the ability of either party to assert their respective claims of jurisdiction or sovereign immunity.

(e) Entering into the cooperative agreement shall not be a basis for denying any remedy to which a party is otherwise entitled.

(f) Within 10 days of issuance of a final federal permit or tribal permit, a copy of that permit shall be provided to the California

Environmental Protection Agency and the tribe having jurisdiction over the facility.

44206. (a) Nothing in this article shall limit or expand, or be construed to limit or expand, the jurisdiction of any state agency specified in subdivision (b) of Section 44203 or any tribal agency with respect to any solid waste facility located in Indian country, including, but not limited to, the enforcement powers and procedures available to the state or any tribe with respect to those facilities to the extent not preempted by federal law, including, but not limited to, powers and procedures contained in state or tribal statutes or regulations.

(b) The cooperative agreement shall provide that the state may exercise its enforcement powers over any solid waste facility project on Indian country where a cooperative agreement has been executed, subject to all of the following requirements:

(1) A violation or threatened violation of any standard or requirement set forth in Section 44203 or its functional equivalent in the cooperative agreement, or any condition set forth in a cooperative agreement or permit for the facility, has occurred or is occurring. For purposes of this paragraph, "threatened violation" means a condition creating a substantial probability of harm, when the probability and potential extent of harm make it reasonably necessary to take immediate action to prevent, reduce, or mitigate damages to persons, property, or natural resources.

(2) The violation or violations have been brought to the attention of the tribe and to the owner and operator of the solid waste facility, through written notice from the appropriate agency. The notice shall identify the specific violation or violations which are occurring or have occurred and a specific corrective or enforcement action or range of actions, including sufficient penalties. The notice shall include a specific and reasonable timeframe in which to take appropriate corrective or enforcement action.

(3) The tribe, after receiving the notice, has failed to take the action or actions, or to take other reasonable action to abate or correct the violation or violations, in a reasonable time.

(c) The functionally equivalent provisions of tribal or federal permits, as determined sufficient pursuant to Section 44205, together with any cooperative agreement approved pursuant to this article, shall collectively be deemed to constitute permits issued under state law for all purposes of enforcing state law.

(d) Notwithstanding subdivision (a), each of the public agencies specified in subdivision (b) of Section 44203 may immediately exercise its enforcement powers over any solid waste facility project on Indian country where a cooperative agreement has been executed, if, in the judgment of the public agency, immediate state action is required to avoid an imminent and substantial threat to public health and safety or to the environment. The state shall notify the tribe prior to taking any action pursuant to this subdivision.

44207. (a) The cooperative agreement shall provide that the

state or tribe may bring an appropriate civil action in a court of competent jurisdiction to enforce the terms of the cooperative agreement as a contract, and shall not limit the availability to either party of any remedy at law or in equity otherwise available under California law.

(b) The cooperative agreement shall require that the tribe waive its sovereign immunity from any action brought by the state in any court otherwise having jurisdiction over the subject matter, and that the state shall waive its sovereign immunity from any action brought by the tribe, in any court otherwise having jurisdiction over the subject matter, to enforce the terms of the cooperative agreement.

44208. A cooperative agreement executed pursuant to this article shall be executed for the express benefit of the citizens of this state.

44209. Any person may commence a civil action on the person's own behalf against any of the public agencies specified in subdivision (b) of Section 44203, or against the secretary, who is alleged to have approved or certified the sufficiency of any cooperative agreement or permit in violation of this article. No action may be commenced under this section more than 60 days after the agency or secretary has approved or certified the sufficiency of any cooperative agreement or permit under this article.

44210. Notwithstanding this article, a cocomposting facility located in Indian country with a memorandum of agreement adopted November 29, 1989, with the California Regional Water Quality Control Board, Colorado River Basin Region 7, shall be allowed to continue to operate under the terms of that agreement until January 1, 1993, or the date the project complies with this article, whichever date is earlier.

SEC. 5. Section 45002.1 is added to the Public Resources Code, to read:

45002.1. For purposes of this division, "permit" includes matters deemed to be permits pursuant to subdivision (c) of Section 44206.

SEC. 6. Notwithstanding any other provision of law, this chapter shall not be construed to make reference to a "California Environmental Protection Agency" for the purposes of compliance with Provision 2 of Item 3400-002-044 of the Budget Act of 1991.

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

SEC. 8. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become

operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 806

An act to amend Section 3073.5 of the Labor Code, relating to apprenticeship.

[Approved by Governor October 10, 1991. Filed with Secretary of State October 11, 1991.]

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

SECTION 1. Section 3073.5 of the Labor Code, as added by Chapter 269 of the Statutes of 1991, is amended to read:

3073.5. The Chief of the Division of Apprenticeship Standards and the California Apprenticeship Council shall annually report through the Director of Industrial Relations to the Legislature and the public on the activities of the division and the council. The report shall contain information including, but not limited to, analyses of the following:

(a) The number of individuals, including numbers of women and minorities, registered in apprenticeship programs in this state for the current year and in each of the previous five years.

(b) The number and percentage of apprentices, including numbers and percentages of minorities and women, registered in each apprenticeship program having five or more apprentices, and the percentage of those apprentices who have completed their programs successfully in the current year and in each of the previous five years.

(c) Remedial actions taken by the division to assist those apprenticeship programs having difficulty in achieving affirmative action goals or having very low completion rates.

(d) The number of disputed issues with respect to individual apprenticeship agreements submitted to the Administrator of Apprenticeship for determination and the number of those issues resolved by the council on appeal.

(e) The number of apprenticeship program applications received by the division, the number approved, the number denied and the reason for those denials, the number being reviewed, and deficiencies, if any, with respect to those program applications being reviewed.

(f) The number of apprenticeship programs, approved by the Division of Apprenticeship Standards, that are disapproved by the California Apprenticeship Council, and the reasons for those disapprovals.

CHAPTER 807

An act to amend Sections 44223, 44233, 44243, and 44244.1 of, and to add Sections 44241 and 44242 to, the Health and Safety Code, relating to air pollution.

[Approved by Governor October 10, 1991 Filed with Secretary of State October 11, 1991.]

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

SECTION 1. Section 44223 of the Health and Safety Code is amended to read:

44223. (a) In addition to any other fees specified in this code, the Vehicle Code, and the Revenue and Taxation Code, a county air pollution control district, air quality management district, or unified or regional air pollution control district, except the Sacramento district, which has been designated by the state board as a state nonattainment area for any pollutant emitted by motor vehicles may levy a fee of up to two dollars ($2) on motor vehicles registered within the district. A district may impose the fee only if the governing board of the district adopts a resolution providing for both the fee and a corresponding program for the reduction of air pollution from motor vehicles pursuant to, and for related planning, monitoring, enforcement, and technical studies necessary for the implementation of, the California Clean Air Act of 1988.

(b) In districts with nonelected officials on their governing boards, a resolution adopted pursuant to subdivision (a) shall be approved by both a majority of the governing board and a majority of the board members who are elected officials.

(c) A fee imposed pursuant to this section shall become effective on either April 1 or October 1, as provided in the resolution adopted by the board pursuant to subdivision (a).

SEC. 2. Section 44233 of the Health and Safety Code is amended to read:

44233. Not more than 5 percent of the fees distributed to any district pursuant to Section 44229, or distributed by a district to any other public agency pursuant to this chapter, shall be used by the district or other public agency for administrative costs.

SEC. 3. Section 44241 is added to the Health and Safety Code, to read:

44241. (a) Fee revenues generated under this chapter in the bay district shall be subvened to the bay district by the Department of Motor Vehicles after deducting its administrative costs pursuant to Section 44229.

(b) Fee revenues generated under this chapter shall be allocated by the bay district to implement the following transportation control projects and programs that are included in the plan adopted pursuant to Sections 40233 and 40717:

(1) The implementation and enforcement of local ridesharing and employer-based trip reduction ordinances and programs.

(2) The purchase or lease of clean fuel buses for school districts and transit operators.

(3) The provision of local feeder bus or shuttle service to rail and ferry stations.

(4) The implementation and maintenance of local arterial traffic management, including, but not limited to, signal timing, transit signal preemption, bus stop relocation and "smart streets."

(5) Implementation of rail-bus integration and regional transit information systems.

(6) Implementation of demonstration projects in telecommuting, congestion pricing of highways, bridges, and public transit, and alternative fuel vehicles.

(7) Implementation of a smoking vehicles program.

(c) Fee revenue generated under this chapter shall be allocated by the district for projects and programs specified in subdivision (b) to cities, counties, the Metropolitan Transportation Commission, transit districts, or any other public agency responsible for implementing one or more of the specified projects or programs. Fee revenues shall not be used for any planning activities that are not directly related to the implementation of a specific project or program.

(d) Not less than 40 percent of fee revenues shall be allocated to the entity or entities designated pursuant to subdivision (e) for projects and programs in each county within the bay district based upon the county's proportionate share of fee-paid vehicle registration.

(e) In each county, one or more entities may be designated as the overall program manager for the county by resolutions adopted by the county board of supervisors and the city councils of a majority of the cities representing a majority of the population in the incorporated area of the county. The resolution shall specify the terms and conditions for the expenditure of funds. The entities so designated shall be allocated the funds pursuant to subdivision (d) in accordance with the terms and conditions of the resolution.

SEC. 4. Section 44242 is added to the Health and Safety Code, to read:

44242. (a) Any agency which receives funds pursuant to Section 44241 shall, at least once every two years, undertake an audit of each program or project funded. The audit shall be conducted by an independent auditor selected by the bay district in accordance with Division 2 (commencing with Section 1100) of the Public Contract Code. The district shall deduct any audit costs which will be incurred pursuant to this section prior to distributing fee revenues to cities, counties, or other agencies pursuant to Section 44241.

(b) Upon completion of an audit conducted pursuant to subdivision (a), the bay district shall do both of the following:

(1) Make the audit available to the public and to the affected

agency upon request.

(2) Review the audit to determine if the fee revenues received by the agency were spent for the reduction of air pollution from motor vehicles pursuant to the plan prepared pursuant to Sections 40233 and 40717.

(c) If, after reviewing the audit, the bay district determines that the revenues from the fees may have been expended in a manner which is contrary to this chapter or which will not result in the reduction of air pollution from motor vehicles pursuant to that plan, the district shall do all of the following:

(1) Notify the agency of its determination.

(2) Within 45 days of the notification pursuant to paragraph (1), hold a public hearing at which the agency may present information relating to expenditure of the revenues from the fees.

(3) After the public hearing, if the district determines that the agency has expended the revenues from the fees in a manner which is contrary to this chapter or which will not result in the reduction of air pollution from motor vehicles pursuant to the plan prepared pursuant to Sections 40233 and 40717, the district shall withhold these revenues from the agency in an amount equal to the amount which was inappropriately expended. Any revenues withheld pursuant to this paragraph shall be redistributed to the other cities within the county, or to the county, to the extent the district determines that they have complied with the requirements of this chapter.

(d) Any agency which receives funds pursuant to Section 44241 shall encumber the funds within two years of receiving the funds.

SEC. 5. Section 44243 of the Health and Safety Code is amended to read:

44243. Fee revenues generated under this chapter in the south coast district shall be subvened to the south coast district by the Department of Motor Vehicles, after deducting its administrative costs pursuant to Section 44229, for expenditure in the following manner:

(a) Thirty cents ($0.30) of every dollar subvened shall be used by the south coast district for programs to reduce air pollution from motor vehicles and to carry out related planning, monitoring, enforcement, and technical studies which are authorized by, or necessary to implement, the California Clean Air Act of 1988, or the plan prepared pursuant to Article 5 (commencing with Section 40460) of Chapter 5.5 of Part 3.

(b) Forty cents ($0.40) of every dollar subvened shall be distributed by the district to cities and counties located in the south coast district, based upon their prorated share of population, to be used to implement programs to reduce air pollution from motor vehicles which are authorized by, or necessary to implement, the California Clean Air Act of 1988, or the plan prepared pursuant to Article 5 (commencing with Section 40460) of Chapter 5.5 of Part 3. No city or county may receive funds pursuant to this subdivision unless, on or before April 1, 1992, or, for a newly incorporated city,

within 90 days of the date of incorporation, the city or county has adopted and transmitted to the south coast district an ordinance which does all of the following:

(1) Expresses support for the adoption of motor vehicle registration fees to be used to reduce air pollution from motor vehicles pursuant to the California Clean Air Act of 1988 or the plan prepared pursuant to Article 5 (commencing with Section 40460) of Chapter 5.5 of Part 3.

(2) Expressly requires all fee revenues distributed to the city or county pursuant to this subdivision or subdivision (c) to be spent to reduce air pollution from motor vehicles pursuant to the California Clean Air Act of 1988 or the plan prepared pursuant to Article 5 (commencing with Section 40460) of Chapter 5.5 of Part 3.

(3) Establishes an air quality improvement trust fund into which all fee revenues distributed to the city or county shall be deposited, and out of which expenditures shall be made to reduce air pollution from motor vehicles pursuant to the California Clean Air Act of 1988 or the plan prepared pursuant to Article 5 (commencing with Section 40460) of Chapter 5.5 of Part 3.

If a city or county fails to adopt an ordinance pursuant to this subdivision, the fee revenues which would be distributed to that city or county shall instead be distributed to the other cities and counties within the south coast district which have adopted an ordinance pursuant to this subdivision, based upon their prorated share of registered motor vehicles.

(c) Thirty cents ($0.30) of every dollar subvened shall be deposited by the district in an account to be used, pursuant to Section 44244, to implement or monitor programs to reduce air pollution from motor vehicles which are authorized by, or necessary to implement, the California Clean Air Act of 1988, or the plan prepared pursuant to Article 5 (commencing with Section 40460) of Chapter 5.5 of Part 3.

SEC. 6. Section 44244.1 of the Health and Safety Code is amended to read:

44244.1. (a) Any agency which receives fee revenues pursuant to Section 44243 or 44244 shall, at least once every two years, be subject to an audit of each program or project funded. The audit shall be conducted by an independent auditor selected by the south coast district in accordance with Division 2 (commencing with Section 1100) of the Public Contract Code. The district shall deduct any audit costs which will be incurred pursuant to this section prior to distributing fee revenues to cities, counties, or other agencies pursuant to Sections 44243 and 44244.

(b) Upon completion of an audit conducted pursuant to subdivision (a), the south coast district shall do both of the following:

(1) Make the audit available to the public and to the affected agency upon request.

(2) Review the audit to determine if the revenues from the fees received by the agency were spent for the reduction of air pollution

from motor vehicles pursuant to the California Clean Air Act of 1988 or the plan prepared pursuant to Article 5 (commencing with Section 40460) of Chapter 5.5 of Part 3.

(c) If, after reviewing the audit, the south coast district determines that the revenues from the fees may have been expended in a manner which is contrary to this chapter or which will not result in the reduction of air pollution from motor vehicles pursuant to the California Clean Air Act of 1988 or the plan prepared pursuant to Article 5 (commencing with Section 40460) of Chapter 5.5 of Part 3, the district shall do all of the following:

(1) Notify the agency of its determination.

(2) Within 45 days of the notification pursuant to paragraph (1), hold a public hearing at which the agency may present information related to expenditure of the revenues from the fees.

(3) After the public hearing, if the district determines that the agency has expended the revenues from the fees in a manner which is contrary to this chapter or which will not result in the reduction of air pollution from motor vehicles pursuant to the California Clean Air Act of 1988 or the plan prepared pursuant to Article 5 (commencing with Section 40460) of Chapter 5.5 of Part 3, the district shall withhold these revenues from the agency in an amount equal to the amount which was inappropriately expended. Any revenues withheld pursuant to this paragraph shall be redistributed to the other agencies or, upon approval of the district governing board, to entities specified in the work programs developed by the mobile source advisory committee, to the extent the district determines that they have complied with the requirements of this chapter.

(d) Any agency which receives fee revenues pursuant to Section 44243 or 44244 shall expend the funds within one year of the program or project completion date.

CHAPTER 808

An act to amend Section 5631 of the Public Resources Code, relating to parks and recreation, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 10, 1991 Filed with Secretary of State October 11, 1991.]

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

SECTION 1. Section 5631 of the Public Resources Code is amended to read:

5631. The department, in cooperation with the federal government, local public agencies, and appropriate representatives of industry, may, from time to time as needed, coordinate and

conduct a statewide needs analysis in relation to the purposes of this chapter. That analysis shall include a full review of the grant program authorized pursuant to this chapter. The department shall report its findings and recommendations from any analysis, including recommendations as to funding levels and sources in connection with the grant program, to the Legislature. The department may recommend specific legislative changes to the program.

SEC. 2. Notwithstanding any provision or condition set forth in that deed dated January 20, 1977, from the State of California to the City of San Bernardino, recorded in the Office of the County Recorder in San Bernardino on February 2, 1977, as Instrument Book #9106, page 827, the City of San Bernardino may sell at current market value or trade land north of Pacific Street if all of the proceeds from the sale are used to develop new parks or to expand or improve existing parks.

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

Due to the state's budget and fiscal crisis, it is necessary to give the Department of Parks and Recreation authority under this act at the earliest possible time so that it may react effectively to changed conditions. The provisions of this act are also necessary to permit the City of San Bernardino to develop and improve park facilities at the earliest possible time. It is therefore necessary that this act take effect immediately.

CHAPTER 809

An act to amend Section 17721.3 of, and to add Section 39113.5 to, the Education Code, relating to school facilities.

[Approved by Governor October 10, 1991 Filed with Secretary of State October 11, 1991]

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

SECTION 1. It is the intent of the Legislature that the governing board of each school district that constructs a new elementary school, or modernizes an existing elementary school, shall consider offering before-school or after-school child care programs at the facility as constructed or modernized.

SEC. 2. Section 39113.5 is added to the Education Code, to read:

39113.5. (a) Commencing January 1, 1992, all plans and specifications for the construction of a new or modernized elementary school building shall be designed to provide appropriate space, consistent with the needs of the attendance area of the school, to accommodate before-school and after-school child care programs.

The State Allocation Board may waive this requirement if it determines that the school district will experience an educational or financial hardship in this accommodation.

(b) For purposes of this section, first consideration in the design of space to be used for the before-school and after-school child care programs shall be within the multipurpose room.

(c) For purposes of this section, the terms "new construction" and "modernization" shall have the same meaning as those words are used in Chapter 2 (commencing with Section 17700) of Part 10.

(d) No funding shall be made available to any childcare program or facility pursuant to this chapter unless all of the following conditions are met:

(1) The program facility is open to children without regard to any child's religious beliefs or any other factor related to religion.

(2) No religious instruction is included in the program.

(3) The space in which the program is operated is not utilized in any manner to foster religion during the time used for the program.

SEC. 3. Section 17721.3 of the Education Code is amended to read:

17721.3. (a) For purposes of this chapter, "modernization" or "renovation" means any modification of an existing structure, the costs of which do not exceed 25 percent of the replacement cost of that structure.

(b) No project shall be approved for the modernization of any school facility unless and until both of the following are demonstrated to the satisfaction of the board:

(1) The project will enhance the capacity of the facility to achieve one or more educational purposes.

(2) The resulting pupil capacity of the facility, as measured in units of average daily attendance, will equal or exceed 80 percent of the facility's maximum capacity as determined under the board standards established under this chapter.

(c) No project shall be approved for the modernization of any school facility that was constructed less than 30 years prior to the date of the approval of the project applied for under this chapter.

(d) The State Allocation Board may waive the requirement in subdivision (c) if the building has been declared by the office of the State Architect to be, or is in imminent danger of becoming, a health or safety hazard to the pupils. This determination may only be made in the case of a natural disaster, for example, fire, flood, or earthquakes, or as a result of a determination by a qualified engineer, and agreed to in writing by the office of the State Architect.

CHAPTER 810

An act to amend Sections 26721, 26725, 26725.1, 26726, 26727, 26728, 26728.1, 26729, 26730, 26733.5, 26734, 26736, 26738, 26740, 26741, 26742, 26743, 26744, and 26750 of, to add Sections 26722, 26731, and 26746.1 to, and to repeal Section 26739 of, the Government Code, relating to fees.

[Approved by Governor October 10, 1991. Filed with Secretary of State October 11, 1991.]

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

SECTION 1. Section 26721 of the Government Code is amended to read:

26721. Except as provided in this article, the fee for serving or executing any process or notice required by law or the litigants to be served is twenty-one dollars ($21), and there shall be no additional fee for substitute service when substitute service is authorized.

In any case where property has been levied upon and, pursuant to the levy, a copy of the writ of execution and a notice of levy are required by statute to be served either personally or by mail upon the judgment debtor or other person, no fee shall be charged for that service.

SEC. 2. Section 26722 is added to the Government Code, to read:

26722. The fee for serving, executing, or processing any writ or order where the levying officer is required to take immediate possession of the property levied upon is seventy-five dollars ($75).

SEC. 3. Section 26725 of the Government Code is amended to read:

26725. The fee for serving, executing, or processing a writ of attachment, writ of execution, writ of sale, or order on real estate is twenty-five dollars ($25) as to the initial service or posting of a continuous unbroken parcel or tract, and twenty-one dollars ($21) for serving a record owner other than the defendant.

SEC. 4. Section 26725.1 of the Government Code is amended to read:

26725.1. The fee for the serving or posting of any additionally required notices or orders on other parcels is ten dollars ($10) each.

SEC. 5. Section 26726 of the Government Code is amended to read:

26726. (a) The fee for keeping and caring for property under a writ of attachment, execution, possession, or sale shall not exceed seventy-five dollars ($75) when necessarily employed for any eight-hour period or any part thereof. If an additional keeper or keepers are required during these periods, the fee for the additional keeper or keepers shall be the same as fixed, but, in no event shall any one keeper receive more than one hundred fifty dollars ($150) during any 24-hour period when so employed.

(b) In addition to the fees provided by Section 26721, the fee for maintaining custody of property under levy by the use of a keeper is twenty-one dollars ($21) for each day custody is maintained after the first day.

(c) Notwithstanding any other fee charged, a keeper shall receive twenty-one dollars ($21) when pursuant to Section 26738 a levying officer prepares a not found return.

SEC. 6. Section 26727 of the Government Code is amended to read:

26727. The fee for a copy of any writ, process, paper, order, or notice actually made by him or her when required or demanded is fifty cents ($0.50) a page, except that when correct copies are furnished to him or her for use no charge shall be made for those copies.

SEC. 7. Section 26728 of the Government Code is amended to read:

26728. The fee for preparing and posting the initial notice of personal property sale under a writ of attachment, execution, or sale or order of court is twenty-one dollars ($21).

SEC. 8. Section 26728.1 of the Government Code is amended to read:

26728.1. The fee for preparing and posting additionally required notices of personal property sales is ten dollars ($10) each.

SEC. 9. Section 26729 of the Government Code is amended to read:

26729. The fee for furnishing a notice for publication is ten dollars ($10).

SEC. 10. Section 26730 of the Government Code is amended to read:

26730. The fee for conducting or postponing the sale of real or personal property as required by law or the litigant is seventy-five dollars ($75).

SEC. 11. Section 26731 is added to the Government Code, to read:

26731. Three dollars ($3) of any fee collected by the sheriff's civil division or marshal under Sections 26721, 26722, 26725, 26726, 26728, 26730, 26733.5, 26734, 26736, 26738, 26742, 26743, 26744, and 26750 of the Government Code shall be deposited in a special fund in the county treasury. A separate accounting of funds deposited shall be maintained for each depositor, and funds deposited shall be for the exclusive use of the sheriff's civil division or marshal.

Ninety-five percent of the moneys in the special fund shall be expended to supplement the costs of the depositor for the implementation, maintenance, and purchase of auxiliary equipment and furnishings for automated systems or other nonautomated operational equipment and furnishings deemed necessary by the sheriff's civil division or marshal. Five percent of the moneys in the special fund shall be used to supplement the expenses of the sheriff's civil division or marshal in administering the funds.

SEC. 12. Section 26733.5 of the Government Code is amended to

read:

26733.5. The fee for serving a writ of possession of real property on an occupant or the occupants or for posting and serving a copy on the judgment debtor, including the putting of a person in possession of the premises and removing the occupant or occupants is seventy-five dollars ($75). The fee for reposting of a notice to vacate shall be pursuant to Section 26721.

SEC. 13. Section 26734 of the Government Code is amended to read:

26734. The fee for making a levy on personal property already in possession of the officer who is holding it under attachment in the same action, is twenty-five dollars ($25).

SEC. 14. Section 26736 of the Government Code is amended to read:

26736. The fee for cancellation of the service or execution of any process or notice prior to its completion is twenty-one dollars ($21). The fee provided by this section shall not be charged where a charge is made pursuant to any other section of this article in attempting to serve or execute the process or notice.

SEC. 15. Section 26738 of the Government Code is amended to read:

26738. The fee for making a not found return on a summons, affidavit and order, order for appearance, subpoena, writ of attachment, writ of execution, writ of possession, order for delivery of personal property, or other process or notice required to be served, certifying that the person or property cannot be found within the judicial district in which the address specified is situated, is twenty-one dollars ($21).

SEC. 16. Section 26739 of the Government Code is repealed.

SEC. 17. Section 26740 of the Government Code is amended to read:

26740. The fee for the execution and delivery of a deed or certificate of redemption is ten dollars ($10).

SEC. 18. Section 26741 of the Government Code is amended to read:

26741. The fee for executing and delivering a certificate or deed of sale is ten dollars ($10).

SEC. 19. Section 26742 of the Government Code is amended to read:

26742. The fee for executing and delivering any other instrument is twenty-one dollars ($21).

SEC. 20. Section 26743 of the Government Code is amended to read:

26743. The fee for subpoenaing a witness, including a copy of the subpoena and any affidavit required to be served therewith, is twenty-five dollars ($25).

SEC. 21. Section 26744 of the Government Code is amended to read:

26744. The fee for serving or executing a bench warrant arising

from an order of appearance issued under Sections 491.160 or 708.170 of the Code of Civil Procedure is fifty dollars ($50).

SEC. 22. Section 26746.1 is added to the Government Code, to read:

26746.1. A ten dollar ($10) fee shall be assessed by the sheriff or marshal for certification of correction on each citation that requires inspection for proof of correction of any violation pursuant to Section 40616 of the Vehicle Code.

All proceeds of the fee shall be deposited in a special fund in the county treasury. A separate accounting of funds deposited shall be maintained for each depositor, and funds deposited shall be for the exclusive use of the sheriff's civil division or marshal.

Ninety-five percent of the moneys in the special fund shall be expended to supplement the costs of the depositor for the implementation, maintenance, and purchase of auxiliary equipment and furnishings for automated systems or other nonautomated operational equipment and furnishings deemed necessary by the sheriff's civil division or marshal. Five percent of the moneys in the special fund shall be used to supplement the expenses of the sheriff's civil division or marshal in administering the funds.

SEC. 23. Section 26750 of the Government Code is amended to read:

26750. (a) The fee for serving an earnings withholding order under the Wage Garnishment Law, Chapter 5 (commencing with Section 706.010) of Division 2 of Title 9 of Part 2 of the Code of Civil Procedure, including but not limited to the costs of postage or traveling, and for performing all other duties of the levying officer under that law with respect to the levy is twenty-one dollars ($21).

(b) Except as provided in Section 26746, no additional fees, costs, or expenses may be charged by the levying officer for performing the duties under the Wage Garnishment Law, Chapter 5 (commencing with Section 706.010) of Division 2 of Title 9 of Part 2 of the Code of Civil Procedure.

CHAPTER 811

An act to add Section 67140.5 to the Education Code, relating to postsecondary education.

[Approved by Governor October 10, 1991. Filed with Secretary of State October 11, 1991]

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

SECTION 1. Section 67140.5 is added to the Education Code, to read:

67140.5. (a) For purposes of recruitment and the potential employment of students and former students with the State of

California, a state agency, as defined by Section 11000 of the Government Code, may request from an institution of public higher education, and the institution shall provide, the information specified in subdivision (b) relating to its students or former students.

(b) Information made available pursuant to this section is limited to the students' or former students' name, address, major field of study, and number of units completed. A state agency shall reimburse an institution of public higher education for the actual cost of providing the information. A state agency may request a tailored list, omitting any of the categories of information listed above, and the institution shall comply unless the institution determines that it would take an unreasonable amount of personnel time to comply.

(c) Prior to complying with a request from a state agency, institutions of public higher education shall inform students that state agencies may request the information specified in subdivision (b) for purposes leading to employment with the State of California.

(d) The information specified in subdivision (b) shall be released regarding any student or former student if the student or former student notifies the institution, in writing, that this information shall be released.

(e) This section shall not apply to the University of California unless the Regents of the University of California, by resolution, make that provision applicable.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 812

An act to add Section 1107 to the Evidence Code, relating to evidence.

[Approved by Governor October 10, 1991 Filed with Secretary of State October 11, 1991]

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

SECTION 1. Section 1107 is added to the Evidence Code, to read:

1107. (a) In a criminal action, expert testimony is admissible by either the prosecution or the defense regarding battered women's syndrome, including the physical, emotional, or mental effects upon the beliefs, perceptions, or behavior of victims of domestic violence,

except when offered against a criminal defendant to prove the occurrence of the act or acts of abuse which form the basis of the criminal charge.

(b) The foundation shall be sufficient for admission of this expert testimony if the proponent of the evidence establishes its relevancy and the proper qualifications of the expert witness. Expert opinion testimony on battered women's syndrome shall not be considered a new scientific technique whose reliability is unproven.

(c) For purposes of this section, "abuse" and "domestic violence" are defined as provided in Section 542 of the Code of Civil Procedure for purposes of the Domestic Violence Protection Act.

(d) This section is intended as a rule of evidence only and no substantive change affecting the Penal Code is intended.

SEC. 2. The Legislature does not intend Section 1107 of the Evidence Code to preclude the admissibility of evidence of battered women's syndrome under other statutory or case law.

CHAPTER 813

An act relating to seismic safety.

[Approved by Governor October 10, 1991. Filed with Secretary of State October 11, 1991.]

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

SECTION 1. The Legislature finds and declares that the maintenance of cellular telephone service during and after a seismic event or other disaster is critical to the health and safety of persons injured by the event. The Legislature declares that the intent of this act is to provide the means to ensure that, to the extent feasible, service can be relied on during and after those events.

SEC. 2. (a) The Seismic Safety Commission shall administer a task force that shall develop seismic safety building performance standards that shall be used by state and local governmental agencies to evaluate applications for the construction of new cellular radio facilities that are designed exclusively or primarily to house or support cellular telephone switching equipment, transmitter or receiver antennas, and ancillary equipment. The task force shall be privately funded.

(b) The purpose of these performance standards shall be to ensure the continued availability of cellular service during and after a seismic event or other disaster.

(c) The task force shall consist of seven members. No fewer than two of the seven members shall be licensed structural engineers. The membership of the task force shall be as follows:

(1) The State Architect shall be a member of, and chair, the task force.

(2) One member shall be a member of, and appointed by, the Seismic Safety Commission.

(3) One member shall be a member of, and appointed by, the California Building Standards Commission.

(4) One member shall be appointed by the Governor.

(5) The three remaining members shall be officers of cellular telephone utilities, consisting of one officer from a wireline cellular utility, one officer from a nonwireline cellular utility, and one officer from a cellular utility (nonwireline or wireline) that is not controlled by either of the other utilities represented on the task force and that serves a Rural Statistical Area, as defined by the Federal Communications Commission, in the state. These members shall be appointed by the Cellular Carriers Association of California.

(d) The task force shall report the resultant performance standard to the Legislature by December 1, 1992. This standard shall then be recommended to the California Building Standards Commission for adoption.

SEC. 3. Buildings that house cellular radio facilities constructed after January 1, 1992, may be required to meet the standards for essential service buildings pursuant to Chapter 2 (commencing with Section 16000) of Division 12.5 of the Health and Safety Code, if so determined by the task force.

CHAPTER 814

An act to add Article 8 (commencing with Section 1263.710) to Chapter 9 of Title 7 of Part 3 of the Code of Civil Procedure, relating to schools.

[Approved by Governor October 10, 1991. Filed with Secretary of State October 11, 1991.]

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

SECTION 1. The Legislature finds and declares as follows:

(a) In many areas of the state, overcrowding in the schools has created a need for new school facilities in neighborhoods where little or no vacant land exists. School districts are compelled, therefore, to acquire property that has already been developed for residential, commercial, or industrial use.

(b) Because of the housing shortage that exists in much of the state, school districts are often reluctant to acquire residential property and displace the residents of that property. It is in the public interest to encourage alternatives, wherever feasible, to the taking of residential property for public projects.

(c) The acquisition of commercial and industrial properties, however, even when those properties are actively marketed for sale, is frequently rendered undesirable by the costs of discovering and

identifying or characterizing hazardous substances that may be present in those properties.

SEC. 2. Article 8 (commencing with Section 1263.710) is added to Chapter 9 of Title 7 of Part 3 of the Code of Civil Procedure, to read:

Article 8. Remediation of Hazardous Substances on Property to be Acquired by School Districts

1263.710. (a) As used in this article, "hazardous substance," "remedial action," "and removal" shall have the meanings accorded to those terms in Sections 25316, 25322, and 25323, respectively, of the Health and Safety Code.

(b) As used in this article, "required action" means any removal or other remedial action with regard to hazardous substances that is necessary to comply with any requirement of federal, state, or local law.

1263.720. (a) Upon petition of any party to the proceeding, the court in which the proceeding is brought shall specially set for hearing the issue of whether any hazardous substance is present within the property to be taken.

(b) If the court determines that any hazardous substance is present within the property to be taken, the court shall do all of the following:

(1) Identify those measures constituting the required action with regard to the hazardous substance, the probable cost of the required action, and the party that shall be designated by the court to cause the required action to be performed.

(2) Designate a trustee to monitor the completion of the required action and to hold funds, deducted from amounts that are otherwise to be paid to the defendant pursuant to this title, to defray the probable cost of the required action.

(3) Transfer to the trustee funds necessary to defray the probable cost of the required action from amounts deposited with the court pursuant to Article 1 (commencing with Section 1255.010) of Chapter 6 or pursuant to Section 1268.110. In the case of any payment to be made directly to the defendant pursuant to Section 1268.010, the plaintiff shall first pay to the trustee the amount necessary to defray the probable cost of the required action, as identified by the court, and shall pay the remainder of the judgment to the defendant. The total amount transferred or paid to the trustee pursuant to this paragraph shall not exceed an amount equal to 75 percent of the following, as applicable:

(A) Prior to entry of judgment, the amount deposited as the probable amount of compensation pursuant to Article 1 (commencing with Section 1255.010) of Chapter 6.

(B) Subsequent to entry of judgment, the fair market value of the property taken, as determined pursuant to Article 4 (commencing with Section 1263.310). If the amount determined as fair market

value pursuant to that article exceeds the amount deposited pursuant to Article 1 (commencing with Section 1255.010) of Chapter 6, that excess shall be available, subject to the 75 percent limit set forth in this paragraph, for transfer to the trustee for the purposes of this paragraph or for reimbursement of the plaintiff for payments made to the trustee pursuant to this paragraph. If the amount determined as fair market value pursuant to Article 4 (commencing with Section 1263.310) is less than the amount deposited pursuant to Article 1 (commencing with Section 1255.010) of Chapter 6, the plaintiff shall be entitled to a return of amounts thereby deposited, a judgment against the defendant, or both, as necessary to ensure that the total amount transferred or paid to the trustee pursuant to this paragraph not exceed an amount equal to 75 percent of the fair market value of the property taken, as determined pursuant to Article 4 (commencing with Section 1263.310).

(4) Establish a procedure by which the trustee shall make one or more payments from the funds it receives pursuant to paragraph (3) to the party causing the required action to be performed, upon completion of all or specified portions of the required action. Any amount of those funds that remains following the completion of all of the required action shall be applied in accordance with the provisions of this title that govern the disposition of the deposit amounts referred to in paragraph (3).

(c) The actual and reasonable costs of the trustee incurred pursuant to this section shall be paid by the plaintiff.

1263.730. Where the required action is caused to be performed by the plaintiff, and the amount available to the trustee under this article is insufficient to meet the actual cost incurred by the plaintiff to complete the required action, the plaintiff may either apply to the court for a new hearing regarding identification of the probable cost, or complete the required action at its own expense and bring an action against the defendant to recover the additional costs.

1263.740. The presence of any hazardous substance within a property shall not be considered in appraising the property, for purposes of Section 1263.720, pursuant to Article 1 (commencing with Section 1255.010) of Chapter 6, or pursuant to Article 4 (commencing with Section 1263.310).

1263.750. (a) Notwithstanding any action taken pursuant to this article, the plaintiff shall have available all remedies in law that are available to a purchaser of real property with respect to any cost, loss, or liability for which the plaintiff is not reimbursed under this article.

(b) If the plaintiff abandons the proceeding at any time, the plaintiff shall be entitled to compensation for the benefit, if any, conferred on the property by reason of the remedial action performed pursuant to this article. That benefit shall be applied as an offset to the amount of any entitlement to damages on the part of the defendant pursuant to Section 1268.620 or, if it exceeds the amount of those damages, shall constitute a lien upon the property, to the extent of that excess, when recorded with the county recorder

in the county in which the real property is located. The lien shall contain the legal description of the real property, the assessor's parcel number, and the name of the owner of record as shown on the latest equalized assessment roll. The lien shall be enforceable upon the transfer or sale of the property, and the priority of the lien shall be as of the date of recording. In determining the amount of the benefit, if any, neither party shall have the burden of proof.

For the purposes of this subdivision, "benefit" means the extent to which the remedial action has enhanced the fair market value of the property.

1263.760. An offer by the plaintiff to purchase the property subject to this article shall be deemed to satisfy the requirements of Section 7267.2 of the Government Code.

1263.770. This article shall only apply to the acquisition of property by school districts.

CHAPTER 815

An act to amend Sections 266, 11729, and 11730 of the Vehicle Code, relating to vehicles.

[Approved by Governor October 10, 1991 Filed with Secretary of State October 11, 1991]

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

SECTION 1. Section 266 of the Vehicle Code is amended to read:

266. A "consignment" is an arrangement under which a dealer agrees to accept possession of a vehicle of a type required to be registered under this code from an owner for the purpose of selling the vehicle and to pay the owner or the owner's designee from the proceeds of the sale.

SEC. 2. Section 11729 of the Vehicle Code is amended to read:

11729. Any dealer engaging in a consignment with an owner not licensed as a dealer, manufacturer, manufacturer branch, distributor, or a distributor branch licensed under this code, and the consignment is not otherwise prohibited by this code, shall execute a consignment agreement as prescribed by Section 11730. The failure of a dealer, when required under this section, to complete and comply with the terms of the prescribed consignment agreement for any vehicle which the dealer agrees to accept on consignment, or to pay the agreed amount to the consignor or his or her designee within 20 days after the date of sale of the vehicle, is cause for suspending or revoking the license of the dealer under paragraph (10) of subdivision (a) of Section 11705.

SEC. 3. Section 11730 of the Vehicle Code is amended to read:

11730. The consignment agreement required by Section 11729 shall contain all the following terms, phrases, conditions, and

disclosures:

(a) The date the agreement is executed.

(b) All of the following statements:

(1) "I(We), the undersigned consigner(s), hereby consign and deliver possession of my(our) vehicle, which is a (Year) _____ (Make) _____ (ID#) _____ (License) _____ (State) _____ (Mileage) _____, to (Consignee) _____ (Dealer #) _____ for the sole purpose of selling the vehicle and paying, to the consignor or his or her designee from the proceeds of the sale of the vehicle, the amount agreed upon under terms of this agreement. This agreement is effective and valid only for a period of _____ days from this date."

(2) "At the termination of this agreement, the consignee shall return the vehicle to the consignor, or, at the option of both the consignor and consignee, enter into a new agreement."

(3) "If the vehicle is sold by the consignee during the term of this agreement, the money due the consignor shall be disbursed within 20 days after the date of sale in accordance with the terms of this agreement. As used in this agreement, a "sale" occurs when the consignee either (A) receives the purchase price or its equivalent or executes a conditional sales contract for the vehicle, or (B) when the purchaser takes delivery of the vehicle, whichever occurs first."

(4) "The following information shall be completed prior to the signing of this agreement:

Current market value: $_____ Source: _____.

Outstanding liens: $_____ Lienholder: _____.

(Any difference between the outstanding amount shown and the actual payoff to the lienholder will be credited to the consignor.)

Repairs to be made: $_____ Work Order # _____.

Moneys to the consignor: _____ percent of sale price, flat fee of $_____ or the following specific formula: _____."

(5) "Within 20 days after sale, the consignee shall make an accounting to the consignor of all of the following: date of sale, repairs authorized by consignor (supported by work records), exact amount of any liens payable to lienholders, evidence of payment of any liens, and the total sales price."

(6) "The consigned vehicle is delivered to the consignee in trust for the exact terms set forth in this agreement. The consignee agrees to receive this vehicle in trust and not to permit its use for any other purpose other than contained in this agreement without the express written consent of the consignor."

(7) "Upon payment of the moneys due the consignor, the consignor agrees to furnish the consignee those documents necessary to transfer the ownership of the vehicle to the purchaser.

Signatures:

Consignor	Date
Address	
Consignee	Date
Address	"

(8) "NOTICE TO CONSIGNOR: Failure of the consignee to comply with the terms of this agreement may be a violation of statute which could result in criminal or administrative sanctions, or both. If you feel the consignee has not complied with the terms of this agreement, please contact the Department of Motor Vehicles, Division of Investigations and Occupational Licensing, Bureau of Investigations, via the local Department of Motor Vehicles office."

CHAPTER 816

An act to amend Sections 25534 and 25534.5 of, and to add Sections 25531.1 and 25535.2 to, the Health and Safety Code, relating to hazardous materials.

[Approved by Governor October 10, 1991 Filed with Secretary of State October 11, 1991.]

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

SECTION 1. Section 25531.1 is added to the Health and Safety Code, to read:

25531.1. The Legislature finds and declares that the public has a right to know about acutely hazardous materials accident risks that may affect their health and safety, and that this right includes full and timely access to hazard assessment information, including offsite consequence analysis for the most likely hazards, which identifies the offsite area which may be required to take protective action in the event of an acutely hazardous materials release.

The Legislature further finds and declares that the public has a right to participate in decisions about risk reduction options and measures to be taken to reduce the risk or severity of acutely hazardous materials accidents.

SEC. 2. Section 25534 of the Health and Safety Code is amended

to read:

25534. (a) The administering agency shall make a preliminary determination whether there is a significant likelihood that the handler's use of an acutely hazardous material may pose an acutely hazardous materials accident risk.

(1) If the administering agency determines that there is a significant likelihood of risk pursuant to this subdivision, it shall require the handler to prepare and to submit an RMPP in accordance with a timetable based on the priority ranking established in subdivision (b).

(2) If the administering agency determines that there is not a significant likelihood of risk pursuant to this subdivision, it may require the preparation and submission of an RMPP, but need not do so if it determines that the likelihood of an acutely hazardous materials accident risk is remote.

(3) If the administering agency determines that an economic poison, as defined in Section 12753 of the Food and Agricultural Code, used on a farm or nursery may pose a risk pursuant to this subdivision, the administering agency shall first consult with the Department of Food and Agriculture or the county agricultural commissioner to evaluate whether the current RMPP is adequate in relation to the risk. This paragraph does not prohibit, or limit the authority of, an administering agency to conduct its duties under this article.

(b) The administering agency shall rank each use of an acutely hazardous material identified pursuant to paragraph (1) of subdivision (a) in terms of the relative risks associated with its use, should an acutely hazardous materials accident occur. The estimation of the relative risks posed by the use of an acutely hazardous material shall be based on worst case assumptions regarding the quantity and rate of release of the acutely hazardous material, air dispersion, toxicity, meteorological conditions, and other pertinent parameters. Based on the estimate of relative risks, the administering agency shall establish a timetable for the submission of the RMPP for the use of the acutely hazardous material.

(c) The RMPP shall be prepared within 12 months following the request made by the administering agency pursuant to this section. The RMPP shall include all of the following elements:

(1) A description of each accident involving acutely hazardous materials which has occurred at the business or facility within three years from the date of the request made pursuant to subdivision (a), together with a description of the underlying causes of the accident and the measures taken, if any, to avoid a recurrence of a similar accident.

(2) A report specifying the nature, age, and condition of the equipment used to handle acutely hazardous materials at the business or facility and any schedules for testing and maintenance.

(3) Design, operating, and maintenance controls which minimize

the risk of an accident involving acutely hazardous materials.

(4) Detection, monitoring, or automatic control systems to minimize potential acutely hazardous materials accident risks.

(5) A schedule for implementing additional steps to be taken by the business, in response to the findings of the assessment performed pursuant to subdivision (d), to reduce the risk of an accident involving acutely hazardous materials. These actions may include any of the following:

(A) Installation of alarm, detection, monitoring, or automatic control devices.

(B) Equipment modifications, repairs, or additions.

(C) Changes in the operations, procedures, maintenance schedules, or facility design.

(6) Auditing and inspection programs designed to allow the handler to confirm that the RMPP is effectively carried out.

(7) Recordkeeping procedures for the RMPP.

(d) The RMPP shall be based upon an assessment of the processes, operations, and procedures of the business, and shall consider all of the following:

(1) The results of a hazard and operability study which identifies the hazards associated with the handling of an acutely hazardous material due to operating error, equipment failure, and external events, which may present an acutely hazardous materials accident risk.

(2) For the hazards identified in the hazard and operability studies, an offsite consequence analysis which, for the most likely hazards, assumes pessimistic air dispersion and other adverse environmental conditions and which includes a clearly prepared map noting the location of the facility which shows the populations considered pursuant to Section 25534.1 and the zones of vulnerability, including the levels of expected exposure in each zone.

(e) The business shall submit to the administering agency any additional supporting technical information deemed necessary by the administering agency to clarify information submitted pursuant to subdivision (c).

(f) A handler shall maintain all records concerning an RMPP for a period of at least five years.

(g) The RMPP shall identify, by title, all personnel at the business who are responsible for carrying out the specific elements of the RMPP, and their respective responsibilities, and the RMPP shall include a detailed training program to ensure that those persons are able to implement the RMPP.

(h) The handler shall review the RMPP, and shall make necessary revisions to the RMPP at least every three years, but, in any event, within 60 days following a modification which would materially affect the handling of an acutely hazardous material.

(i) Any person who handles acutely hazardous materials and who owns or operates two or more business facilities which are substantially identical may prepare a single generic RMPP

applicable to all those facilities if the handling of the acutely hazardous materials is substantially similar at all of those facilities.

(j) The RMPP, and any revisions required by subdivision (h), shall be certified as complete by a qualified person and the facility operator.

(k) Except as specified in subdivision (d) of Section 25535, the handler shall implement all activities and programs specified in the RMPP within one year following the certification made pursuant to subdivision (j). Implementation of the RMPP shall include carrying out all operating, maintenance, monitoring, inventory control, equipment inspection, auditing, recordkeeping, and training programs as required by the RMPP. The administering agency may grant an extension of this deadline upon a showing of good cause.

(*l*) The Office of Emergency Services shall adopt, and publish for distribution, guidelines for the preparation and submission of an RMPP. In preparing the guidelines for hazard and operability studies, the office shall, at a minimum, base its procedural recommendations on those set forth in the 1985 Guidelines for Chemical Hazard Evaluation Procedures, prepared by the Center for Chemical Process Safety of the American Institute of Chemical Engineers.

SEC. 3. Section 25534.5 of the Health and Safety Code is amended to read:

25534.5. In reviewing an RMPP pursuant to subdivision (a) of Section 25535, the administering agency may have access to and review all technical information in the handler's possession which is reasonably necessary to allow the administering agency to make a determination regarding the sufficiency of the RMPP. That information may include any study or analysis conducted pursuant to subdivision (d) of Section 25534. The handler shall submit the information prepared pursuant to paragraph (2) of subdivision (d) of Section 25534 to the administering agency upon completing the studies and analysis specified in that subdivision. Information collected pursuant to subdivision (d) of Section 25534 shall not be disclosed by the administering agency except as provided in Section 25511.

SEC. 4. Section 25535.2 is added to the Health and Safety Code, to read:

25535.2. Within 15 days after the administering agency determines the RMPP is complete, the administering agency shall make the RMPP available to the public for review and comment for a period of at least 45 days. A notice briefly describing and stating that the RMPP is available for public review at a certain location shall be placed in a daily local newspaper and mailed to interested persons and organizations. The administrative agency shall consider these public comments in the review of the RMPP pursuant to Section 25535.

SEC. 5. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the

local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act or for those costs which may be incurred by a local agency or school district because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 817

An act to amend Section 25366.5 of the Health and Safety Code, to amend Sections 10406 and 10409 of the Public Contract Code, and to amend Section 3472 of, and to add Chapter 4 (commencing with Section 48600) to Part 7 of Division 30 of, the Public Resources Code, relating to oil, and making an appropriation therefor.

[Approved by Governor October 10, 1991 Filed with Secretary of State October 11, 1991.]

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

SECTION 1. Section 25366.5 of the Health and Safety Code is amended to read:

25366.5. (a) Any public agency operating a hazardous waste collection program, as defined in Section 25345.5, or any person operating such a program under an agreement with a public agency, or, for material received from the public as used oil, any person operating a certified used oil collection center as provided in Section 48660 of the Public Resources Code, shall not be held liable in any cost recovery action brought pursuant to Section 25360 for any waste which has been properly handled and transported to an authorized hazardous waste treatment or disposal facility at a location other than that of the collection program.

(b) Except as provided in subdivision (a), this section does not affect or modify the obligations or liabilities of any person imposed pursuant to any state or federal law.

SEC. 2. Section 10406 of the Public Contract Code is amended to read:

10406. Every procuring agency shall revise its procedures and specifications on or before July 1, 1992, for the purchase of lubricating oil and industrial oil to eliminate any exclusion of recycled oils and any requirement that oils be manufactured from virgin materials.

SEC. 3. Section 10409 of the Public Contract Code is amended to read:

10409. Every local agency, as defined in Section 17518 of the

Government Code, shall purchase lubricating oil and industrial oil from the seller whose oil product contains the greater percentage of recycled oil, if the availability, fitness, quality, and price of the recycled oil product is otherwise equal to, or better than, virgin oil products.

SEC. 4. Section 3472 of the Public Resources Code is amended to read:

3472. The board shall maintain access to a toll-free telephone number which is to be used for the purpose of informing callers of the following:

(a) The permissible methods of recycling or disposing of used oil.

(b) The types of establishments likely to be properly equipped and authorized to accept used oil.

(c) Specific establishments located in the area of the caller that have notified the board that they are properly equipped and authorized to accept used oil.

(d) Specific oil recycling facilities in the area of the caller that are authorized by the Department of Toxic Substances Control to receive used oil and that have programs of used oil pickup.

SEC. 5. Chapter 4 (commencing with Section 48600) is added to Part 7 of Division 30 of the Public Resources Code, to read:

CHAPTER 4. CALIFORNIA OIL RECYCLING ENHANCEMENT

Article 1. Legislative Findings

48600. The Legislature finds and declares the following:

(a) The problem posed by used oil disposal requires a comprehensive, statewide response, including, but not limited to, eliminating illegal disposal, reducing landfill disposal of used oil, recycling of used oil into new uses, and the promotion of secondary markets for recycled oil products.

(b) California currently generates about 161 million gallons of used lubricating and industrial oil each year, and only about 50 percent of that oil is recycled.

(c) The scarcity of used oil collection centers and programs, and the charges imposed on consumers for recycling used oil, create economic disincentives for recycling which could be addressed through a recycling incentive program.

(d) Used oil represents a valuable state resource which should be reclaimed and recycled whenever possible. An abundance of used oil recycling alternatives exist which have been demonstrated to be environmentally safe. These alternatives need to be promoted in order to achieve the maximum use of used oil and prevent damage to the environment.

(e) It is the intent of the Legislature to reduce the illegal disposal of used oil and recycle and reclaim used oil to the greatest extent possible in order to recover valuable natural resources and to avoid damage to the environment and threats to public health.

Article 2. Short Title

48601. This chapter shall be known and may be cited as the California Oil Recycling Enhancement Act.

Article 3. Definitions

48610. Unless the context otherwise requires, the following definitions govern the construction of this chapter.

48610.5. "Bulk oil" means oil which is in nonpackaged form in containers larger than 55 gallons.

48611. "Container" means a drum, can, or other receptacle used primarily for storage or transportation of oil. "Container" does not mean the equipment in which oil is used.

48612. "Department" means the Department of Toxic Substances Control.

48613. "Fund" means the California Used Oil Recycling Fund created pursuant to Section 48653.

48614. "Industrial generator" means an entity which buys and uses lubricating oil only for equipment owned or used by the business entity. "Industrial generator" includes state or local governmental entities, as defined by Section 5902 of the Government Code. "Industrial generator" does not include motor carriers which have received oil for which a payment has not been made pursuant to Section 48650.

48616. "Industrial oil" includes, but is not limited to, any compressor, turbine, or bearing oil, hydraulic oil, metal-working oil, or refrigeration oil. Industrial oil does not include dielectric fluids.

48617. "Local government" has the same meaning as defined in Section 30109.

48618. "Lubricating oil" includes, but is not limited to, any oil intended for use in an internal combustion engine crankcase, transmission, gearbox, or differential in an automobile, bus, truck, vessel, plane, train, heavy equipment, or other machinery powered by an internal combustion engine.

48619. "Oil manufacturer" means any person or entity who bottles, cans, or otherwise packages, distributes, or sells lubricating or industrial oil.

48620. "Recycled oil" means recycled oil, as defined in subdivision (c) of Section 25250.1 of the Health and Safety Code.

48621. "Used oil" means used oil, as defined in subdivision (a) of Section 25250.1 of the Health and Safety Code. Used oil does not include articles contaminated with de minimis quantities of used oil, such as used oil filters, oily rags, and scrap metal.

48622. "Used oil collection center" means a business, governmental entity, or nonprofit organization which accepts used lubricating oil from the public and which is exempt from hazardous waste facility permit requirements pursuant to subdivision (a) of Section 25250.11 of the Health and Safety Code.

48623. "Used oil hauler" means a hazardous waste hauler registered pursuant to Chapter 6.5 (commencing with Section 25100) of Division 20 of the Health and Safety Code who transports used oil to a used oil recycling facility certified pursuant to Article 7 (commencing with Section 48660).

48624. "Used oil recycling facility" means a facility which is issued a hazardous waste facilities permit or grant of interim status by the department pursuant to Section 25200 or 25200.5 of the Health and Safety Code to convert used oil into recycled oil.

Article 4. Used Oil Recycling

48630. On or before October 1, 1992, the board shall adopt a used oil recycling program which promotes and develops alternatives to the illegal disposal of used oil.

48631. The used oil recycling program shall include, but is not limited to, the following:

(a) A recycling incentive system as described in Article 6 (commencing with Section 48650).

(b) Grants or loans, as specified in Section 48632.

(c) Development and implementation of an information and education program for the promotion of alternatives to the illegal disposal of used oil.

(d) A reporting, monitoring, and enforcement program to ensure that all statutes and regulations relating to used oil are properly carried out.

48632. The board may issue grants or loans pursuant to Section 48631 for only the following purposes:

(a) To local governments for providing opportunities for used lubricating oil collection, which are in addition to those included in the local used oil collection programs adopted pursuant to Article 10 (commencing with Section 48690).

(b) To nonprofit entities for projects, which may include one or more of the following programs or activities:

(1) Establishing used lubricating oil collection centers.

(2) Providing containers and other materials and supplies that the public can utilize in an environmentally sound manner to store used lubricating oil for pickup or return to a used oil collection center.

(3) Obtaining equipment and establishing procedures to comply with federal, state, and local law regarding the collection, handling, and storage of used oil.

(c) Research, testing, and demonstration projects to develop uses for recycled oil.

48633. The grants to nonprofit organizations and governmental entities authorized by subdivisions (a) and (b) of Section 48632 may include grants to offset operational expenses.

48634. In adopting the program required by this article, the board shall consider information developed pursuant to the Used Oil Collection Demonstration Grant Program Act of 1990 (Chapter 1.5

(commencing with Section 3475) of Division 3).

Article 5. Administration

48640. The board shall administer this chapter. For organizational purposes, the board may create a new division, bureau, office, or unit to administer this chapter.

48641. In addition to any other regulations which the board is required by statute to adopt, the board may adopt any other rules and regulations pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code which the board determines may be necessary or useful to carry out this chapter or any of the board's duties or responsibilities imposed pursuant to this chapter.

48642. The board may prepare, publish, or issue printed pamphlets, which the board determines to be necessary, for the dissemination of information concerning the activities of the board pursuant to this chapter.

48643. In carrying out this chapter, the board may solicit and use any and all expertise available in other state agencies, including, but not limited to, the State Board of Equalization, and, where an existing state agency performs functions of a similar nature to the board's functions, the board may contract with or cooperate with that agency in carrying out this chapter.

Article 6. Financial Provisions

48650. (a) Beginning October 1, 1992, every oil manufacturer shall pay to the board, within 20 days of the end of each quarter, an amount equal to four cents ($0.04) for every quart, or sixteen cents ($0.16) for every gallon, of lubricating oil sold or transferred in the state, or imported into the state for use in the state in that quarter. Except as provided in subdivision (b), no payment is required for oil which meets any of the following:

(1) Oil for which a payment has already been made to the board pursuant to this section.

(2) Oil exported or sold for export from the state.

(3) Oil sold for use in vessels operated in interstate or foreign commerce by a person engaged in the business of a common or contract carrier.

(4) Oil imported into the state in the engine crankcase, transmission, gear box, or differential of an automobile, bus, truck, vessel, plane, train, or heavy equipment or machinery.

(5) Bulk oil imported into, transferred in, or sold in the state to a motor carrier, as defined in Section 408 of the Vehicle Code, and used in a vehicle designated in subdivisions (a) and (b) of Section 34500 of the Vehicle Code.

(b) An oil manufacturer shall make the payment specified in subdivision (a) for oil exempted from payment pursuant to

paragraph (2) or (3) of subdivision (a), if the oil is subsequently sold or transferred for use, or is used, in the state, and the use does not otherwise qualify the oil for exemption pursuant to subdivision (a).

48651. (a) The board shall pay a recycling incentive to every industrial generator, curbside collection program, and certified used oil collection center, for used lubricating oil collected from the public, or generated by the certified used oil collection center or the industrial generator, after April 1, 1993, and transported by a used oil hauler to a certified used oil recycling facility.

(b) The board shall pay a recycling incentive to an electric utility, as defined in Section 25108, for used lubricating oil generated after April 1, 1993, and used by the electric utility for electrical generation if the utility's use of the used lubricating oil meets the requirements of subparagraph (C) of paragraph (2) of subdivision (d) of Section 25143.2 of the Health and Safety Code and the used oil complies with the standards for recycled oil established in subdivision (c) of Section 25250.1 of the Health and Safety Code.

(c) A person or entity that generates used industrial oil shall cause that oil to be transported by a used oil hauler to a certified oil recycling facility.

48652. The board shall set the recycling incentive amount at not less than four cents ($0.04) per quart. The amount may be set at an amount higher than four cents ($0.04) if the board determines that a higher amount is necessary to promote recycling of used lubricating oil and sufficient funds are available in the fund. The board shall not change the amount of the recycling incentive until at least one year has passed since the amount was last set. The board shall continue providing recycling incentives to certified used oil collection centers at the previous rate for one month after setting the recycling incentive at a lower rate.

48653. The board shall deposit all amounts paid pursuant to Section 48650 by manufacturers, civil penalties, or fines paid pursuant to this chapter, and all other revenues received pursuant to this chapter into the California Used Oil Recycling Fund, which is hereby created in the State Treasury. Notwithstanding Section 13340 of the Government Code, the moneys in the fund are hereby continuously appropriated, without regard to fiscal year, solely as follows:

(a) To the board for expenditure for the following purposes:

(1) To pay recycling incentives pursuant to Section 48651.

(2) Except as provided in Section 48654, to pay the costs necessary to administer this chapter, including implementing the reporting, monitoring, and enforcement program pursuant to subdivision (d) of Section 48631, not to exceed three million dollars ($3,000,000) annually.

(3) To provide a reserve for contingencies, as may be available after making other payments required by this section, in an amount not to exceed one million dollars ($1,000,000).

(4) To make block grants for the implementation of local used oil

collection programs adopted pursuant to Article 10 (commencing with Section 48690) to cities, based on the city's population, and counties, based on the population of the unincorporated area of the county, in a total annual amount equal to ten million dollars ($10,000,000) or half of the amount which remains in the fund after the expenditures are made pursuant to paragraphs (1) to (3), inclusive, and subdivision (b), and pursuant to Section 48654, whichever amount is greater, multiplied by the fraction equal to the population of cities and counties which are eligible for block grants pursuant to Section 48690, and divided by the population of the state. The board shall use the latest population estimates of the state generated by the Population Research Unit of the Department of Finance in making the calculations required by this paragraph.

(b) Except as provided in Section 48654, to the department, the sum of four hundred fifty thousand dollars ($450,000) which shall be available for encumbrance until June 30, 1994, to pay the costs of the inspection program required pursuant to Section 48661. The Legislature intends that the appropriation contained in this subdivision shall be sufficient for the costs of implementing the inspection program required by Section 48661 in fiscal years 1992–93 and 1993–94. Appropriations for subsequent years shall be provided through the annual budget process.

48654. On and after July 1, 1994, the money in the fund may be expended by the board for the administration of this chapter and by the department for inspections and reports pursuant to Section 48661 only upon appropriation by the Legislature in the annual Budget Act.

48655. After all of the expenditures pursuant to Section 48653 have been made, the balance remaining in the fund shall be deposited in the Used Oil Market and Collection Promotion Account, which is hereby created in the fund.

48656. Moneys deposited in the Used Oil Market and Collection Promotion Account shall be available to the board for expenditure, upon appropriation by the Legislature, solely for implementation of subdivisions (b) and (c) of Section 48631 and Section 48660.5. The board shall not expend more than two hundred thousand dollars ($200,000) to implement Section 48660.5 and at least 40 percent of the moneys deposited in the account shall be expended for the purposes of subdivision (a) of Section 48632, at least 10 percent shall be expended for the purposes of subdivision (b) of Section 48632, and at least 20 percent shall be expended for the purposes of subdivision (c) of Section 48631.

48657. The board shall keep accurate books, records, and accounts of all of its dealings, and these books, records, and accounts are subject to an annual audit by an auditing firm selected by the board. The auditing firm or the board shall also conduct a selective audit of entities making payments to, or receiving payments from, the board to determine whether payments required by Section 48650 are being paid to the board on all lubricating oil sold in California,

and that grants and recycling incentives are being paid out properly by the board. The audit shall be made a part of the report required pursuant to Section 40507.

Article 7. Certification

48660. (a) No used oil collection center shall be eligible for payment of recycling incentives unless and until the board has certified that it is in compliance with the requirements specified in subdivision (b). Before certification, the board may require the center to submit any information that the board determines is necessary to find that the center is in compliance with those requirements. Used oil collection centers shall reapply for certification every two years. The board may cancel the certification for a center if it finds, after a public hearing, that the center is not or has not been in compliance with the requirements contained in subdivision (b). The board may withhold payment of recycling incentives for used oil collected by a center if the board finds that the center was not in compliance with the requirements contained in subdivision (b) during the time in which the used oil was collected.

(b) In order to be eligible for certification by the board and the payment of recycling incentives, the used oil collection center shall comply with all of the following:

(1) Shall accept used lubricating oil from the public at no charge during the hours that the center is open for business.

(2) Shall pay to any person an amount equal to the recycling incentive which the center will receive for used lubricating oil brought to the center in containers by the person. Nothing in this chapter prohibits any person from donating used lubricating oil to a collection center.

(3) Shall provide information to the board for informing the public of the center's acceptance of used lubricating oil.

(4) Shall provide notice to the public, through onsite signs and periodic advertising in local media, of the center's acceptance of used lubricating oil from the public. Onsite signs shall be of a design specified by the board and shall be at least two feet by three in size, easily readable from a public street, and shall include the words "Used Oil Collection Center— Recycling Incentive Paid for Used Lubricating Oil in Containers During Business Hours from Members of the Public Who Change Their Own Oil." Where local zoning ordinances prevent signs of a size consistent with this section, an onsite sign shall be of the maximum allowable size.

(c) Notwithstanding subdivision (b), a used oil collection center shall not accept more than 20 gallons of used lubricating oil, in containers not larger than five gallons, from a person each day and may refuse to accept used lubricating oil which has been contaminated in a manner other than that which would occur through normal use.

(d) Notwithstanding subdivision (b), no collection center shall

knowingly accept used oil for which a payment has not been made pursuant to Section 48650.

48660.5. (a) If the board finds that a shipment of used oil from a certified used oil collection center is contaminated by hazardous materials in excess of that which generally occurs in normal use, which renders the used oil infeasible for recycling, and requires that the used oil be destroyed at a substantially higher cost than the cost generally to recycle used oil, the board shall, upon application by the used oil collection center, reimburse the center for the additional disposal cost, subject to the eligibility requirements of subdivision (b), except as provided in subdivision (c).

(b) A certified used oil collection center is eligible for reimbursement only if it demonstrates to the satisfaction of the board all of the following:

(1) The center has established procedures to ensure that the used oil it generates and accepts from the public will not be mixed with other hazardous wastes, especially halogenated wastes. These procedures shall include, but not be limited to, instructing the public and employees that used oil shall not be mixed with other hazardous waste. The board shall not require a center to test used oil received from the public as part of these procedures.

(2) The shipment contains not more than five gallons of contaminants.

(c) In any calendar year, a used oil collection center shall be reimbursed for not more than one shipment and for not more than five thousand dollars ($5,000) in disposal costs, subject to the availability of funds pursuant to Section 48656.

48661. (a) On and after July 1, 1992, the department shall annually inspect used oil recycling facilities.

(b) Within 135 days following inspection, the department shall submit a report to the board, describing all of the following:

(1) Any violations of Chapter 6.5 (commencing with Section 25100) of Division 20 of the Health and Safety Code.

(2) Any corrective actions ordered or agreed to by the department.

(3) Progress by the facility in correcting violations identified in previous inspections.

(c) In the report required by subdivision (b), the department shall specifically state whether any of the following occurred:

(1) The department has identified violations of subdivision (c) of Section 25250.1 of the Health and Safety Code regarding achievement of minimum standards of purity for recycled oil.

(2) The department has identified violations of regulations requiring financial responsibility assurance for liability, closure, and postclosure obligations.

(3) Where prior contamination has been identified, the facility has an approved corrective action plan and has not been found to be in violation of its requirements.

48662. The board shall certify or recertify any used oil recycling

facility for which the board has received a report from the department pursuant to Section 48661, unless the board determines that the facility is engaged in a repeating or recurring pattern of noncompliance that poses a significant threat to public health and safety or the environment. If the board denies certification, the board may subsequently certify a facility if it determines that the facility meets the standards for certification.

Article 8. Reporting

48670. In order to be eligible for payment of a recycling incentive, an industrial generator of used lubricating oil, a used oil collection center, or a curbside collection program shall report to the board for each quarter the amount of lubricating oil purchased and the amount of used lubricating oil transported to a certified used oil recycling facility or used to generate electricity pursuant to subdivision (b) of Section 48651. The reports shall be submitted within 20 days after the end of each quarter, in the form and manner which the board may prescribe, and shall include copies of manifests or modified manifest receipts from used oil haulers. The board may provide, by regulation, for a longer reporting period for industrial generators which generate less than 1,000 gallons of used oil annually.

48671. Beginning May 1, 1992, every manufacturer who sells, or offers to sell, lubricating or industrial oil in this state shall report to the board for each month the amount of lubricating or industrial oil sold. The reports shall be submitted by the day when payment required by Section 48650 is or would be due, in the form and manner which the board may prescribe.

48672. Beginning May 1, 1992, every used oil hauler shall report to the board for each quarter the amount of used oil transported, the location to which it is transported, and the source of the used oil. The hauler shall provide estimates, where feasible, of the amount which is used lubricating oil and the amount which is used industrial oil. The reports shall be submitted within 10 days after the end of each quarter, in the form and manner which the board may prescribe.

48673. Beginning July 1, 1992, every used oil recycling facility shall report to the board for each quarter the amount of used oil received and the amount of recycled oil produced. The facility shall provide estimates, where feasible, of the amount which is used lubricating oil and the amount which is used industrial oil. The reports shall be submitted within 10 days after the end of each quarter, in the form and manner which the board may prescribe.

48674. Beginning on the first January 1 after receiving a block grant pursuant to paragraph (4) of subdivision (a) Section 48653, and on or before January 1 thereafter, each local government shall submit a report to the board, which includes any amendments to the local used oil collection program adopted pursuant to Section 48690, a description of all measures taken to implement the program, and a description of how the block grant for the previous year was

expended.

48675. The board shall establish procedures to protect any proprietary information concerning sales, purchases, and operations obtained while collecting information for carrying out this chapter.

48676. (a) The board shall establish reporting periods for the reporting of accumulated industrial and lubricating oil sales and used oil recycling rates, and each reporting period shall be six months, except that the first reporting period shall be a six-month period from July 1, 1992, to December 31, 1992, inclusive. The board shall issue a report on its determinations within 70 days of the end of each reporting period.

(b) As part of the report required pursuant to Section 40507, the board shall summarize industrial and lubricating oil sales and recycling rates, the results of programs funded pursuant to this chapter, recommendations, if any, for statutory changes to the program, including changes to the amounts of the payment required by Section 48650 and the recycling incentive, and plans for present and future programs to be conducted over the next two years.

Article 9. Enforcement

48680. (a) Except as provided in subdivision (b), in addition to any other civil or criminal penalties, any person convicted of a violation of this chapter is guilty of an infraction, which is punishable by a fine of not more than one hundred dollars ($100) per day for each day the violation occurs.

(b) Every person who, with intent to defraud, does not accurately report the amount of oil sold, collected, or transferred pursuant to Article 8 (commencing with Section 48670), who, with intent to defraud, does not make payments as required by Section 48650, or who knowingly receives or pays a recycling incentive for oil upon which a payment has not been made pursuant to Section 48650 is guilty of fraud. If the money obtained or withheld is four hundred dollars ($400) or less, the fraud is punishable by imprisonment in the county jail for not more than six months, by a fine of not more than one thousand dollars ($1,000), or by both that fine and imprisonment. If the money obtained or withheld is more than four hundred dollars ($400), the fraud is punishable by imprisonment in the county jail for not more than one year or imprisonment in the state prison, by a fine not exceeding ten thousand dollars ($10,000), or twice the late or unmade payments plus interest, whichever is greater, or by both that fine and imprisonment.

(c) Any person who violates this chapter may be assessed a civil penalty by the board of not more than one hundred dollars ($100) per day for each day the violation occurs or continues, pursuant to a hearing and notice.

Article 10. Local Used Oil Collection Program

48690. A local government is eligible for a block grant pursuant to paragraph (4) of subdivision (a) of Section 48653, if it develops and submits a local used oil collection program to the board pursuant to Section 48691 and files an annual report pursuant to Section 48674. The board shall make a grant to every local government which submits a program and files an annual report unless the board finds that the program or its implementation does not comply with criteria contained in this article.

48691. (a) A local used oil collection program shall provide for used lubricating oil collection by either of the following or a combination of the two:

(1) Ensuring that at least one certified used oil collection center is available for every 100,000 residents not served by curbside used oil collection, which accepts oil from the public at no charge, at least 20 hours each week, on four days each week, of which three hours each week are outside the weekday hours of 8 a.m. through 5:30 p.m.

(2) Providing curbside collection at least once a month.

(b) A local used oil collection program shall include a public education program which shall inform the public of locally available used oil recycling opportunities.

(c) A local government may implement its used oil collection program in conjunction with other similar programs in order to improve used oil recycling efficiency.

SEC. 6. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 818

An act to add Sections 51201.5 and 51229.8 to the Education Code, relating to education.

[Approved by Governor October 11, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. The Legislature hereby finds and declares that acquired immune deficiency syndrome (AIDS) is a growing threat

to the State of California. Since there is currently no cure and no vaccine for AIDS, education is the most effective weapon to combat the epidemic. It is, therefore, the intent of the Legislature in enacting this act to ensure that school districts provide their pupils with adequate and appropriate education on AIDS and AIDS prevention. It is also the intent of the Legislature to allow local school district governing boards to determine the appropriate grade levels and courses for AIDS instruction.

SEC. 2. Section 51201.5 is added to the Education Code, to read:

51201.5. (a) Commencing in the 1992–93 school year, school districts shall ensure that all pupils in grades 7 to 12, inclusive, or the equivalent thereof, except as otherwise provided in subdivision (c), receive AIDS prevention instruction from adequately trained instructors in appropriate courses. Each pupil shall receive the instruction at least once in junior high or middle school and once in high school. For purposes of this subdivision, "school district" includes county boards of education, county superintendents of schools, and the State Schools for the Handicapped.

(b) The required AIDS prevention instruction shall accurately reflect the latest information and recommendations from the United States Surgeon General, federal Centers for Disease Control, and the National Academy of Sciences, and shall include the following:

(1) Information on the nature of AIDS and its effects on the human body.

(2) Information on how the human immunodeficiency virus (HIV) is and is not transmitted, including information on activities that present the highest risk of HIV infection.

(3) Discussion of methods to reduce the risk of HIV infection. This instruction shall emphasize that sexual abstinence and abstinence from intravenous drug use are the most effective means for AIDS prevention, but shall also include statistics based upon the latest medical information citing the failure and success rates of condoms and other contraceptives in preventing sexually transmitted HIV infection and information on other methods that may reduce the risk of HIV transmission from intravenous drug use. Nothing in this section shall be construed to supersede Section 51533.

(4) Discussion of the public health issues associated with AIDS.

(5) Information on local resources for HIV testing and medical care.

(6) Development of refusal skills to assist pupils to overcome peer pressure and use effective decisionmaking skills to avoid high-risk activities.

(7) Discussion about societal views on AIDS, including stereotypes and myths regarding persons with AIDS. This instruction shall emphasize compassion for persons with AIDS.

(c) The governing board of each school district, each county board of education, and each county superintendent of schools, as applicable, shall provide the parent or guardian of each pupil in grades 7 to 12, inclusive, or the equivalent thereof, with written

notice explaining the purpose of the AIDS prevention instruction. The Superintendent of Public Instruction shall provide the parent or guardian of each pupil in grades 7 to 12, inclusive, or the equivalent thereof, in the State Schools for the Handicapped with written notice explaining the purpose of the AIDS prevention instruction. The notice shall specify that any parent or guardian may request that his or her child or ward not receive instruction in AIDS prevention. No pupil shall attend the AIDS prevention instruction if a written request that he or she not attend has been received by the school. For the governing boards of school districts, this notification shall accompany the reporting of rights and responsibilities required by Section 48980. If authorized by the school district governing board, a school district may require parental consent prior to providing instruction on AIDS prevention to any minor pupil.

(d) All school districts shall ensure all of the following:

(1) That instructional materials related to this instruction are available.

(2) That these instructional materials are appropriate for use with pupils of various ages and learning abilities.

(3) That these instructional materials may be used effectively with pupils from a variety of ethnic, cultural, and linguistic backgrounds, and special needs.

SEC. 3. Section 51229.8 is added to the Education Code, to read:

51229.8. County offices of education and school districts, through regional planning, joint powers agreements, or contract services, shall cooperatively plan and conduct in-service training to all teachers and school employees who provide AIDS prevention instruction. This in-service training shall be conducted periodically to enable staff to remain current with new developments in the scientific understanding of AIDS as well as with new prevention education techniques. In-service training shall be voluntary for teachers or school employees who have demonstrated expertise or have already received in-service training by the State Department of Education or the federal Centers for Disease Control, or other appropriate agency or group. The training shall be provided by persons with expertise in AIDS prevention education, including, but not limited to, school nurses or certified health educators who are qualified to provide training in AIDS education. In developing and providing the in-service training, county offices of education and school districts shall cooperate and collaborate with the AIDS Advisory Task Force in the State Department of Education. It is the intent of the Legislature that, to the extent possible, training be provided to a team of educators and parents including school board members, administrators, teachers, parents, classified personnel, and counselors.

SEC. 4. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant

to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 819

An act to amend and repeal Sections 1805.1, 1806.3, 1807.2, 1808.5, and 1810.2 of, to add Section 1803.11 to, and to repeal Sections 1805.1a, 1805.3, 1805.5, and 1808.6 of, the Civil Code, relating to consumer credit.

[Approved by Governor October 11, 1991 Filed with Secretary of State October 14, 1991]

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

SECTION 1. Section 1803.11 is added to the Civil Code, to read:

1803.11. It shall be unlawful for any seller to solicit buyers, in any advertisement, to enter into a retail installment contract with it if the seller does not intend to sell that retail installment contract to a financing agency or other assignee, unless the advertisement clearly states the periodic rate or range of periodic rates, expressed as an annual percentage rate or a range of annual percentage rates that will be used to determine the finance charge imposed on the retail installment contract.

SEC. 2. Section 1805.1 of the Civil Code, as amended by Section 1 of Chapter 479 of the Statutes of 1988, is amended to read:

1805.1. The holder of the contract shall not charge, collect, or receive a finance charge which exceeds the dollar amount shown pursuant to subdivision (b) of Section 1803.3, except to the extent (a) caused by the holder's receipt of one or more payments under a contract which provides for determination of the finance charge or a portion thereof on the 365-day basis at a time or times other than as originally scheduled, whether or not the parties enter into an agreement pursuant to Section 1807.1, (b) permitted by paragraph (2), (3), or (4) of subdivision (c) of Section 226.17 of Regulation Z, or (3) permitted by Section 1805.8.

No annual fee or charge shall be made in any retail installment contract.

SEC. 3. Section 1805.1 of the Civil Code, as added by Section 1.5 of Chapter 479 of the Statutes of 1988, is repealed.

SEC. 4. Section 1805.1a of the Civil Code is repealed.

SEC. 5. Section 1805.3 of the Civil Code is repealed.

SEC. 6. Section 1805.5 of the Civil Code is repealed.

SEC. 7. Section 1806.3 of the Civil Code, as amended by Section 5 of Chapter 479 of the Statutes of 1988, is amended to read:

1806.3. (a) Notwithstanding any provision of a contract to the contrary, the buyer may pay at any time before maturity the entire indebtedness evidenced by the contract without penalty. In the event of prepayment in full:

(1) If the finance charge was determined on the precomputed basis, the amount required to repay the contract shall be the outstanding contract balance as of that date, provided, however, that the buyer shall be entitled to a refund credit in the amount of the unearned portion of the finance charge. The amount of the unearned portion of the finance charge shall be at least as great a proportion of the finance charge, or if the contract has been extended, deferred, or refinanced, of the additional charge therefor, as the sum of the periodic monthly time balances payable more than 15 days after the date of prepayment bears to the sum of all the periodic monthly time balances under the schedule of installments in the contract or, if the contract has been extended, deferred or refinanced, as so extended, deferred or refinanced. Where the amount of the refund credit is less than one dollar ($1), no refund credit need be made by the holder. Any refund credit in the amount of one dollar ($1) or more may be made in cash or credited to the outstanding obligations of the buyer under the contract.

(2) If the finance charge or a portion thereof was determined on the simple-interest basis, the amount required to prepay the contract shall be the outstanding contract balance as of that date, including any earned finance charges which are unpaid as of that date, and provided further that in cases where the finance charge or a portion thereof is determined on the 360-day basis, the payments theretofore received will be assumed to have been received on their respective due dates regardless of the actual dates on which those payments were received.

(b) Notwithstanding any provision of a contract to the contrary, whenever the indebtedness created by any retail installment contract is satisfied prior to its maturity through surrender of the collateral, repossession of the collateral, redemption of the collateral after repossession, or any judgment, the outstanding obligation of the buyer shall be determined as provided in subdivision (a); provided further that the buyer's outstanding obligation shall be computed by the holder as of the date the holder recovers the value of the collateral through disposition thereof or judgment is entered or, if the holder elects to keep the collateral in satisfaction of the buyer's indebtedness, as of the date the holder takes possession of the collateral.

(c) This section does not preclude the collection or retention by the holder of any delinquency charge made pursuant to Section 1803.6.

SEC. 8. Section 1806.3 of the Civil Code, as added by Section 5.5

of Chapter 479 of the Statutes of 1988, is repealed.

SEC. 9. Section 1807.2 of the Civil Code, as amended by Section 6 of Chapter 479 of the Statutes of 1988, is amended to read:

1807.2. The holder of a retail installment contract or contracts may, upon agreement in writing with the buyer, refinance the remaining amount owing on the contract or contracts by providing for a new schedule of installment payments. The holder may charge and contract for the payment of a refinance charge by the buyer and collect and receive the same, but such refinance charge shall be based upon the amount refinanced, plus any additional cost of insurance and of official fees incident to the refinancing, after the deduction of a refund credit in an amount equal to that to which the buyer would have been entitled under Section 1806.3 if he or she had prepaid in full his or her obligations under the contract or contracts. The agreement for refinancing may also provide for the payment by the buyer of the additional cost to the holder of the contract or contracts of premiums for continuing in force, until the maturity of the contract or contracts as refinanced, any insurance coverages provided for therein, subject to Section 1803.5. The refinancing agreement shall set forth:

(a) The amount of the existing outstanding balance to be refinanced, which consists of the remaining amount owing to be refinanced.

(b) The amount of any refund credit.

(c) The difference between subdivisions (a) and (b), which is the net outstanding balance to be refinanced.

(d) Any additional cost of insurance and of official fees to the buyer.

(e) The sum of subdivisions (c) and (d), which is the amount financed.

(f) The finance charge (1) as expressed as the annual percentage rate as defined in Regulation Z and (2) expressed in dollars.

(g) The number amount, and due dates or periods of payments scheduled to repay the indebtedness and the sum of those payments.

The items need not be stated in the sequence or order set forth above; additional items may be included to explain the computations made in determining the amount to be paid by the buyer. Where there is a consolidation of two or more contracts then Sections 1808.1 and 1808.2 shall apply. If the finance charge or any portion thereof is calculated on the 365-day basis, the amount of the finance charge shown pursuant to subdivision (f) shall be that amount which will be incurred by the buyer if all payments are received by the seller on their respective due dates.

SEC. 10. Section 1807.2 of the Civil Code, as added by Section 6.5 of Chapter 479 of the Statutes of 1988, is repealed.

SEC. 11. Section 1808.5 of the Civil Code, as amended by Section 7 of Chapter 479 of the Statutes of 1988, is amended to read:

1808.5. Subject to the other provisions of Article 5 (commencing with Section 1805.1), the finance charge to be included in a

consolidated total of payments under subdivision (*l*) of Section 1808.2 shall be determined by applying the finance charge at the applicable rate to the unpaid balance under subdivision (j) of Section 1808.2, for the period from the date of the consolidation to and including the date when the final installment of the consolidated total is payable.

SEC. 12. Section 1808.5 of the Civil Code, as added by Section 7.5 of Chapter 479 of the Statutes of 1988, is repealed.

SEC. 13. Section 1808.6 of the Civil Code is repealed.

SEC. 14. Section 1810.2 of the Civil Code, as amended by Section 9 of Chapter 479 of the Statutes of 1988, is amended to read:

1810.2. Subject to the other provisions of this article, the seller or holder of a retail installment account may charge, receive and collect a finance charge as disclosed to the buyer pursuant to Section 1810.3.

SEC. 15. Section 1810.2 of the Civil Code, as added by Section 9.5 of Chapter 479 of the Statutes of 1988, is repealed.

SEC. 16. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 820

An act to amend Sections 2625 and 3417 of the Penal Code, and to amend Sections 361.5, 366.22, 366.26, and 10950 of, and to repeal Section 13702 of, the Welfare and Institutions Code, relating to minors.

[Approved by Governor October 11, 1991. Filed with Secretary of State October 14, 1991]

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

SECTION 1. Section 2625 of the Penal Code is amended to read:

2625. In any action brought under Section 232 of the Civil Code, and Section 366.26 of the Welfare and Institutions Code, where the action seeks to terminate the parental rights of any prisoner or any action brought under Section 300 of the Welfare and Institutions Code, where the action seeks to adjudicate the child of a prisoner a dependent child of the court, the superior court of the county in which the action is pending, or a judge thereof, shall order notice of any court proceeding regarding the action transmitted to the

prisoner.

For the purposes of this section only, the term "prisoner" includes any individual in custody in a state prison, in the California Rehabilitation Center, or a county jail, or who is a ward of the Department of the Youth Authority or who, upon a verdict or finding that the individual was insane at the time of committing an offense, or mentally incompetent to be tried or adjudged to punishment, is confined in a state hospital for the care and treatment of the mentally disordered or in any other public or private treatment facility.

Service of notice shall be made pursuant to Section 235 of the Civil Code or Section 337 or 366.23 of the Welfare and Institutions Code, as appropriate.

Upon receipt by the court of a statement from the prisoner or his or her attorney indicating the prisoner's desire to be present during the court's proceedings, the court shall issue an order for the temporary removal of the prisoner from the institution, and for the prisoner's production before the court. No proceeding may be held under Section 232 of the Civil Code or Section 366.26 of the Welfare and Institutions Code and no petition to adjudge the child of a prisoner a dependent child of the court pursuant to subdivision (a), (b), (c), (d), (e), (f), (i), or (j) of Section 300 of the Welfare and Institutions Code may be adjudicated without the physical presence of the prisoner or the prisoner's attorney, unless the court has before it a knowing waiver of the right of physical presence signed by the prisoner or an affidavit signed by the warden, superintendent or other person in charge of the institution, or his or her designated representative stating that the prisoner has, by express statement or action, indicated an intent not to appear at the proceeding.

In any other action in which a prisoner's parental or marital rights are subject to adjudication, an order for the prisoner's temporary removal from the institution and for the prisoner's production before the court may be made by the superior court of the county in which the action is pending, or by a judge thereof. A copy of the order shall be transmitted to the warden, superintendent, or other person in charge of the institution not less than 48 hours before the order is to be executed. The order shall be executed by the sheriff of the county in which it shall be made, whose duty it shall be to bring the prisoner before the proper court, to keep the prisoner safely, and when the prisoner's presence is no longer required, to return the prisoner to the institution from which he or she was taken; the expense of executing the order shall be a proper charge against and shall be paid by, the county in which the order shall be made.

The order shall be to the following effect:

County of _____ (as the case may be).

The people of the State of California to the warden of _____:

An order having been made this day by me, that A. B. be produced in this court as a party in the case of _____, you are commanded to deliver A. B. into the custody of _____ for the purpose of (recite

purposes).

Dated this _____ day of _____, 19____.

When a prisoner is removed from the institution pursuant to this section, the prisoner shall remain in the constructive custody of the warden, superintendent, or other person in charge of the institution.

SEC. 2. Section 3417 of the Penal Code is amended to read:

3417. (a) Subject to reasonable rules and regulations adopted pursuant to Section 3414, the Department of Corrections shall admit to the program any applicant whose child was born prior to the receipt of the inmate by the department, if all of the following requirements are met:

(1) The applicant has a probable release or parole date with a maximum time to be served of six years, calculated after deduction of any possible good time credit.

(2) The applicant was the primary caretaker of the infant prior to incarceration. "Primary caretaker" as used in this chapter means a parent who has consistently assumed responsibility for the housing, health, and safety of the child prior to incarceration. A parent who, in the best interests of the child, has arranged for temporary care for the child in the home of a relative or other responsible adult shall not for that reason be excluded from the category, "primary caretaker."

(3) The applicant had not been found to be an unfit parent in any court proceeding. An inmate applicant whose child has been declared a dependent of the juvenile court pursuant to Section 300 of the Welfare and Institutions Code shall be admitted to the program only after the court has found that participation in the program is in the child's best interest and that it meets the needs of the parent and child pursuant to paragraph (3) of subdivision (e) of Section 361.5 of the Welfare and Institutions Code. The fact that an inmate applicant's child has been found to come within Section 300 of the Welfare and Institutions Code shall not, in and of itself, be grounds for denying the applicant the opportunity to participate in the program.

(b) The Department of Corrections shall deny placement in the community treatment program if it determines that an inmate would pose an unreasonable risk to the public, or if any one of the following factors exist, except in unusual circumstances or if mitigating circumstances exist, including, but not limited to, the remoteness in time of the commission of the offense:

(1) The inmate has been convicted of any of the following:

(A) A sex offense listed in Section 667.6.

(B) A sex offense requiring registration pursuant to Section 290.

(C) A violent offense listed in subdivision (c) of Section 667.5.

(D) Arson as defined in Sections 450 to 455, inclusive.

(E) The unlawful sale or possession for sale, manufacture, or transportation of controlled substances as defined in Chapter 6 (commencing with Section 11350) of Division 10 of the Health and Safety Code, if large scale for profit as defined by the department.

(2) There is probability the inmate may abscond from the program as evidenced by any of the following:

(A) A conviction of escape, of aiding another person to escape, or of an attempt to escape from a jail or prison.

(B) The presence of an active detainer from a law enforcement agency, unless the detainer is based solely upon warrants issued for failure to appear on misdemeanor Vehicle Code violations.

(3) It is probable the inmate's conduct in a community facility will be adverse to herself or other participants in the program, as determined by the Director of Corrections or as evidenced by any of the following:

(A) The inmate's removal from a community program which resulted from violation of state laws, rules, or regulations governing Department of Corrections' inmates.

(B) A finding of the inmate's guilt of a serious rule violation, as defined by the Director of Corrections, which resulted in a credit loss on one occasion of 91 or more days or in a credit loss on more than one occasion of 31 days or more and the credit has not been restored.

(C) A current written opinion of a staff physician or psychiatrist that the inmate's medical or psychiatric condition is likely to cause an adverse effect upon the inmate or upon other persons if the inmate is placed in the program.

(c) Nothing in this section shall be interpreted to limit the discretion of the Director of Corrections to deny or approve placement when subdivision (b) does not apply.

(d) The Department of Corrections shall determine if the applicant meets the requirements of this section within 30 days of the parent's application to the program. The department shall establish an appeal procedure for the applicant to appeal an adverse decision by the department.

(e) The department may, in its discretion, admit a pregnant inmate to the program prior to the birth of the child if it determines that the admission would otherwise comply with this chapter, and there is space available.

SEC. 3. Section 361.5 of the Welfare and Institutions Code is amended to read:

361.5. (a) Except as provided in subdivision (b), whenever a minor is removed from a parent's or guardian's custody, the juvenile court shall order the probation officer to provide child welfare services to the minor and the minor's parents or guardians for the purpose of facilitating reunification of the family within a maximum time period not to exceed 12 months. The court also shall make findings pursuant to subdivision (a) of Section 366. When counseling or other treatment services are ordered, the parent shall be ordered to participate in those services, unless the parent's participation is deemed by the court to be inappropriate or potentially detrimental to the child. Services may be extended up to an additional six months if it can be shown that the objectives of the service plan can be achieved within the extended time period. Physical custody of the

minor by the parents or guardians during the 18-month period shall not serve to interrupt the running of the period.

Except in cases where, pursuant to subdivision (b), the court does not order reunification services, the court shall inform the parent or parents of Section 366.25 or 366.26 and shall specify that the parent's or parents' parental rights may be terminated.

(b) Reunification services need not be provided to a parent described in this subdivision when the court finds, by clear and convincing evidence, any of the following:

(1) That the whereabouts of the parents is unknown. A finding pursuant to this paragraph shall be supported by an affidavit or by proof that a reasonably diligent search has failed to locate the parent. The posting or publication of notices is not required in such a search.

(2) That the parent is suffering from a mental disability that is described in Section 232 of the Civil Code and that renders him or her incapable of utilizing those services.

(3) That the minor had been previously adjudicated a dependent pursuant to any subdivision of Section 300 as a result of physical or sexual abuse, that following that adjudication the minor had been removed from the custody of his or her parent or guardian pursuant to Section 361, that the minor has been returned to the custody of the parent or parents or guardian or guardians from whom the minor had been taken originally, and that the minor is being removed pursuant to Section 361, due to additional physical or sexual abuse. However, this section is not applicable if the jurisdiction of the juvenile court has been dismissed prior to the additional abuse.

(4) That the parent of the minor has been convicted of causing the death of another child through abuse or neglect.

(5) That the minor was brought within the jurisdiction of the court under subdivision (e) of Section 300 because of the conduct of that parent.

(c) In deciding whether to order reunification in any case in which this section applies, the court shall hold a dispositional hearing. The probation officer shall prepare a report which discusses whether reunification services shall be provided. When it is alleged, pursuant to paragraph (2) of subdivision (b), that the parent is incapable of utilizing services due to mental disability, the court shall order reunification services unless competent evidence from mental health professionals establishes that, even with the provision of services, the parent is unlikely to be capable of adequately caring for the child within 12 months.

When paragraph (3), (4), or (5), inclusive, of subdivision (b) is applicable, the court shall not order reunification unless it finds that, based on competent testimony, those services are likely to prevent reabuse or continued neglect of the child or that failure to try reunification will be detrimental to the child because the child is closely and positively attached to that parent. The probation officer shall investigate the circumstances leading to the removal of the minor and advise the court whether there are circumstances which

indicate that reunification is likely to be successful or unsuccessful and whether failure to order reunification is likely to be detrimental to the child.

The failure of the parent to respond to previous services, the fact that the child was abused while the parent was under the influence of drugs or alcohol, a past history of violent behavior, or testimony by a competent professional that the parent's behavior is unlikely to be changed by services are among the factors indicating that reunification services are unlikely to be successful. The fact that a parent or guardian is no longer living with an individual who severely abused the minor may be considered in deciding that reunification services are likely to be successful, provided that the court shall consider any pattern of behavior on the part of the parent that has exposed the child to repeated abuse.

(d) If reunification services are not ordered pursuant to paragraph (1) of subdivision (b) and the whereabouts of a parent become known within six months of the out-of-home placement of the minor, the court shall order the probation officer to provide family reunification services in accordance with this subdivision. However, the time limits specified in subdivision (a) and Section 366.25 are not tolled by the parent's absence.

(e) (1) If the parent or guardian is incarcerated or institutionalized, the court shall order reasonable services unless the court determines those services would be detrimental to the minor. In determining detriment, the court shall consider the age of the child, the degree of parent-child bonding, the length of the sentence, the nature of the treatment, the nature of crime or illness, the degree of detriment to the child if services are not offered and, for minors 10 years of age or older, the minor's attitude toward the implementation of family reunification services, and any other appropriate factors. Reunification services are subject to the 18-month limitation imposed in subdivision (a). Services may include, but shall not be limited to, all of the following:

(A) Maintaining contact between parent and child through collect phone calls.

(B) Transportation services, where appropriate.

(C) Visitation services, where appropriate.

(D) Reasonable services to extended family members or foster parents providing care for the child if the services are not detrimental to the child.

An incarcerated parent may be required to attend counseling, parenting classes, or vocational training programs as part of the service plan if these programs are available.

(2) The presiding judge of the juvenile court of each county may convene representatives of the county welfare department, the sheriff's department, and other appropriate entities for the purpose of developing and entering into protocols for ensuring the notification, transportation, and presence of an incarcerated or institutionalized parent at all court hearings involving proceedings

affecting the minor pursuant to Section 2625 of the Penal Code.

(3) Notwithstanding any other provision of law, if the incarcerated parent is a woman seeking to participate in the community treatment program operated by the Department of Corrections pursuant to Chapter 4 (commencing with Section 3410) of Title 2 of Part 3 of the Penal Code, the court shall determine whether the parent's participation in a program is in the child's best interest and whether it is suitable to meet the needs of the parent and child.

(f) If a court, pursuant to paragraph (2), (3), (4), or (5) of subdivision (b), does not order reunification services, it shall conduct a hearing pursuant to Section 366.25 or 366.26 within 120 days of the dispositional hearing. However, the court shall not schedule a hearing so long as the other parent is being provided reunification services pursuant to subdivision (a). The court may continue to permit the parent to visit the minor unless it finds that visitation would be detrimental to the minor.

(g) Whenever a court orders that a hearing shall be held pursuant to Section 366.25 or 366.26 it shall direct the agency supervising the child and the licensed county adoption agency, or the State Department of Social Services when it is acting as an adoption agency in counties which are not served by a county adoption agency, to prepare an assessment which shall include:

(1) Current search efforts for an absent parent or parents.

(2) A review of the amount of and nature of any contact between the minor and his or her parents since the time of placement.

(3) An evaluation of the minor's medical, developmental, scholastic, mental, and emotional status.

(4) A preliminary assessment of the eligibility and commitment of any identified prospective adoptive parent or guardian, particularly the caretaker, to include a social history including screening for criminal records and prior referrals for child abuse or neglect, the capability to meet the minor's needs, and the understanding of the legal and financial rights and responsibilities of adoption and guardianship.

(5) The relationship of the minor to any identified prospective adoptive parent or guardian, the duration and character of the relationship, the motivation for seeking adoption or guardianship, and a statement from the minor, if the minor is 10 years of age or older, concerning placement and the adoption or guardianship.

(6) An analysis of the likelihood that the minor will be adopted if parental rights are terminated.

SEC. 4. Section 366.22 of the Welfare and Institutions Code is amended to read:

366.22. (a) When a case has been continued pursuant to paragraph (1) of subdivision (g) of Section 366.21, the court, at the 18-month hearing, shall order the return of the minor to the physical custody of his or her parent or guardian unless, by a preponderance of the evidence, it finds that return of the child would create a

substantial risk of detriment to the physical or emotional well-being of the minor. The probation department shall have the burden of establishing the detriment. The failure of the parent or guardian to participate regularly in any court-ordered treatment programs shall constitute prima facie evidence that return would be detrimental. In making its determination, the court shall review the probation officer's report and shall review and consider the report and recommendations of any child advocate appointed pursuant to Section 356.6 and shall consider the efforts or progress, or both, demonstrated by the parent or guardian and the extent to which he or she cooperated and availed himself or herself of services provided. If the minor is not returned to a parent or guardian, the court shall specify the factual basis for its conclusion that return would be detrimental.

If the minor is not returned to a parent or guardian at the 18-month hearing, the court shall develop a permanent plan. The court shall order that a hearing be held pursuant to Section 366.26 in order to determine whether adoption, guardianship, or long-term foster care is the most appropriate plan for the minor. However, if the court finds by clear and convincing evidence, based on the evidence already presented to it that the minor is not adoptable and has no one willing to accept legal guardianship, the court may order that the minor remain in long-term foster care. The hearing shall be held no later than 120 days from the date of the 18-month hearing. The court shall also order termination of reunification services to the parent. The court shall continue to permit the parent to visit the minor unless it finds that visitation would be detrimental to the minor. The court shall determine whether reasonable services have been offered or provided to the parent or guardian.

(b) Whenever a court orders that a hearing pursuant to Section 366.26 shall be held, it shall direct the agency supervising the child and the licensed county adoption agency, or the State Department of Social Services when it is acting as an adoption agency in counties which are not served by a county adoption agency, to prepare an assessment which shall include:

(1) Current search efforts for an absent parent or parents.

(2) A review of the amount of and nature of any contact between the minor and his or her parents or other members of his or her extended family since the time of placement. Although the extended family of each minor shall be reviewed on a case-by-case basis, "extended family" for the purposes of this paragraph shall include, but not be limited to, the minor's siblings, grandparents, aunts, and uncles.

(3) An evaluation of the minor's medical, developmental, scholastic, mental, and emotional status.

(4) A preliminary assessment of the eligibility and commitment of any identified prospective adoptive parent or guardian, particularly the caretaker, to include a social history including screening for criminal records and prior referrals for child abuse or neglect, the

capability to meet the minor's needs, and the understanding of the legal and financial rights and responsibilities of adoption and guardianship.

(5) The relationship of the minor to any identified prospective adoptive parent or guardian, the duration and character of the relationship, the motivation for seeking adoption or guardianship, and a statement from the minor, if the minor is 10 years of age or older, concerning placement and the adoption or guardianship.

(6) An analysis of the likelihood that the minor will be adopted if parental rights are terminated.

SEC. 5. Section 366.26 of the Welfare and Institutions Code, as amended by Section 7.5 of Chapter 1530 of the Statutes of 1990, is amended to read:

366.26. (a) This section applies to minors who are adjudged dependent children of the juvenile court pursuant to subdivision (c) of Section 360 on or after January 1, 1989. The procedures specified herein are the exclusive procedures for conducting these hearings; Section 4600 of the Civil Code is not applicable to these proceedings. For minors who are adjudged dependent children of the juvenile court pursuant to subdivision (c) of Section 360 on or after January 1, 1989, this section and Sections 221.20, 222.10, and 7017 of the Civil Code specify the exclusive procedures for permanently terminating parental rights with regard to, or establishing legal guardianship of, the minor while the minor is a dependent child of the juvenile court.

(b) At the hearing, which shall be held in juvenile court for all minors who are dependents of the juvenile court, the court, in order to provide stable, permanent homes for these minors, shall review the report as specified in Section 361.5, 366.21, or 366.22, shall indicate that the court has read and considered it, shall receive other evidence that the parties present, and then shall do one of the following:

(1) Permanently sever the parent or parents' rights and order that the child be placed for adoption.

(2) Without permanently terminating parental rights, identify adoption as the permanent placement goal and order that efforts be made to locate an appropriate adoptive family for the minor for a period not to exceed 60 days.

(3) Without permanently terminating parental rights, appoint a legal guardian for the minor and issue letters of guardianship.

(4) Order that the minor be placed in long-term foster care, subject to the regular review of the juvenile court.

In choosing among the above alternatives the court shall proceed pursuant to subdivision (c).

(c) At the hearing the court shall proceed pursuant to one of the following procedures:

(1) The court shall terminate parental rights only if it determines by clear and convincing evidence that it is likely that the minor will be adopted. If the court so determines, the findings pursuant to subdivision (b) of Section 361.5 that reunification services shall not

be offered, or the findings pursuant to subdivision (e) of Section 366.21 that the whereabouts of a parent have been unknown for six months or that the parent has failed to visit or contact the child for six months or that the parent has been convicted of a felony indicating parental unfitness, or pursuant to Section 366.21 or Section 366.22 that a minor cannot or should not be returned to his or her parent or guardian, shall then constitute a sufficient basis for termination of parental rights unless the court finds that termination would be detrimental to the minor due to one of the following circumstances:

(A) The parents or guardians have maintained regular visitation and contact with the minor and the minor would benefit from continuing the relationship.

(B) A minor 10 years of age or older objects to termination of parental rights.

(C) The child is placed in a residential treatment facility, adoption is unlikely or undesirable, and continuation of parental rights will not prevent finding the child a permanent family placement if the parents cannot resume custody when residential care is no longer needed.

(D) The minor is living with a relative or foster parent who is unable or unwilling to adopt the minor because of exceptional circumstances, which do not include an unwillingness to accept legal responsibility for the minor, but who is willing and capable of providing the minor with a stable and permanent environment and the removal of the minor from the physical custody of his or her relative or foster parent would be detrimental to the emotional well-being of the minor.

(2) The court shall not terminate parental rights if at each and every hearing at which the court was required to consider reasonable efforts or services, the court has found that reasonable efforts were not made or that reasonable services were not offered or provided.

(3) If the court finds that termination of parental rights would not be detrimental to the minor pursuant to paragraph (1) and that the minor has a probability for adoption but is difficult to place for adoption and there is no identified or available prospective adoptive parent, the court may identify adoption as the permanent placement goal and without terminating parental rights, order that efforts be made to locate an appropriate adoptive family for the minor for a period not to exceed 60 days. During this 60-day period, the public agency responsible for seeking adoptive parents, for each child shall, to the extent possible, contact other private and public adoption agencies regarding the availability of the child for adoption. At the expiration of this period, another hearing shall be held and the court shall proceed pursuant to paragraph (1), (3), or (4) of subdivision (b). For purposes of this section, a minor may only be found to be difficult to place for adoption if there is no identified or available prospective adoptive parent for the minor because of the minor's membership in a sibling group, or the presence of a diagnosed

medical, physical, or mental handicap, or the minor is the age of seven years or more.

(4) If the court finds that adoption of the minor or termination of parental rights is not in the interests of the minor, or that one of the conditions in subparagraph (A), (B), (C), or (D) of paragraph (1) or in paragraph (2) applies, the court shall either order that the present caretakers or other appropriate persons shall become legal guardians of the minor or order that the minor remain in long-term foster care. Legal guardianship shall be considered before long-term foster care, if it is in the best interests of the child and if a suitable guardian can be found. When the minor is living with a relative or a foster parent who is willing and capable of providing a stable and permanent environment, but not willing to become a legal guardian, the minor shall not be removed from the home if the court finds the removal would be seriously detrimental to the emotional well-being of the minor because the minor has substantial psychological ties to the relative caretaker or foster parents. The court shall also make an order for visitation with the parents or guardians unless the court finds by a preponderance of the evidence that the visitation would be detrimental to the physical or emotional well-being of the minor.

(5) If the court finds that the child should not be placed for adoption, that legal guardianship shall not be established, and that there are no suitable foster parents except exclusive-use homes available to provide the minor with a stable and permanent environment, the court may order the care, custody, and control of the minor transferred from the county welfare department or probation department to a licensed foster family agency. The court shall consider the written recommendation of the county welfare director or chief probation officer regarding the suitability of such a transfer. The transfer shall be subject to further court orders.

The licensed foster family agency shall place the minor in a suitable licensed or exclusive-use home which has been certified by the agency as meeting licensing standards. The licensed foster family agency shall be responsible for supporting the minor and for providing appropriate services to the minor, including those services ordered by the court. Responsibility for the support of the minor shall not, in and of itself, create liability on the part of the foster family agency to third persons injured by the minor. Those minors whose care, custody, and control are transferred to a foster family agency shall not be eligible for foster care maintenance payments or child welfare services, except for emergency response services pursuant to Section 16504.

(d) The proceeding for the appointment of a guardian for a minor who is a dependent of the juvenile court shall be in the juvenile court. If the court finds pursuant to this section that legal guardianship is the appropriate permanency plan, it shall appoint the legal guardian and issue letters of guardianship. The assessment prepared pursuant to subdivision (g) of Section 361.5, subdivision (i) of Section 366.21, and subdivision (b) of Section 366.22 shall be read

and considered by the court prior to the appointment, and this shall be reflected in the minutes of the court. The person preparing the assessment may be called and examined by any party to the proceeding.

(e) At the beginning of any proceeding pursuant to this section, if the minor or the parents are not being represented by previously retained or appointed counsel, the court shall proceed as follows:

(1) The court shall consider whether the interests of the minor require the appointment of counsel. If the court finds that the interests of the minor do require such protection, the court shall appoint counsel to represent the minor. If the court finds that the interests of the minor require the representation of counsel, counsel shall be appointed whether or not the minor is able to afford counsel. The minor shall not be present in court unless the minor so requests or the court so orders.

(2) If a parent appears without counsel and is unable to afford counsel, the court shall appoint counsel for the parent, unless this representation is knowingly and intelligently waived. The same counsel shall not be appointed to represent both the minor and his or her parent. The public defender or private counsel may be appointed as counsel for the parent.

(3) Private counsel appointed under this section shall receive a reasonable sum for compensation and expenses, the amount of which shall be determined by the court. The amount shall be paid by the real parties in interest, other than the minor, in such proportions as the court deems just. However, if the court finds that any of the real parties in interest are unable to afford counsel, the amount shall be paid out of the general fund of the county.

(f) The court may continue the proceeding for not to exceed 30 days as necessary to appoint counsel, and to enable counsel to become acquainted with the case.

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

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

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

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

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

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

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

(h) Any order of the court permanently terminating parental rights under this section shall be conclusive and binding upon the minor person, upon the parent or parents and upon all other persons who have been served with citation by publication or otherwise as provided in this chapter. After making such an order, the court shall have no power to set aside, change, or modify it, but nothing in this section shall be construed to limit the right to appeal the order.

(i) If the court, by order or judgment declared the minor free from the custody and control of both parents, or one parent if the other no longer has custody and control, the court shall at the same time order the minor referred to a licensed county adoption agency for adoptive placement by the agency. However, no petition for adoption may be heard until the appellate rights of the natural parents have been exhausted. The licensed county adoption agency shall be responsible for the care and supervision of the minor and shall be entitled to the exclusive care and control of the minor at all times until a petition for adoption is granted.

(j) Notwithstanding any other provision of law, the application of any person who, as a relative caretaker or foster parent, has cared for a dependent child for whom the court has approved a permanent plan for adoption, or who has been freed for adoption, shall be given preference with respect to that child over all other applications for adoptive placement if the agency making the placement determines that the child has substantial emotional ties to the relative caretaker or foster parent and removal from the relative caretaker or foster parent would be seriously detrimental to the child's well-being.

As used in this subdivision, "preference" means that the application shall be processed and, if satisfactory, the family study shall be completed before the processing of the application of any other person for the adoptive placement of the child.

(k) An order by the court directing that a hearing pursuant to this section be held is not an appealable order, but may be the subject of review by extraordinary writ.

SEC. 6. Section 10950 of the Welfare and Institutions Code is amended to read:

10950. If any applicant for or recipient of public social services is dissatisfied with any action of the county department relating to his or her application for or receipt of public social services, if his or her application is not acted upon with reasonable promptness, or if any person who desires to apply for public social services is refused the opportunity to submit a signed application therefor, and is dissatisfied with that refusal, he or she shall, in person or through an authorized representative, without the necessity of filing a claim with the board of supervisors, upon filing a request with the State Department of Social Services or the State Department of Health Services, whichever department administers the public social service, be accorded an opportunity for a state hearing.

Priority in setting and deciding cases shall be given in those cases in which aid is not being provided pending the outcome of the

hearing. This priority shall not be construed to permit or excuse the failure to render decisions within the time allowed under federal and state law.

Notwithstanding any other provision of this code, there is no right to a state hearing when either (1) state or federal law requires automatic grant adjustments for classes of recipients unless the reason for an individual request is incorrect grant computation, or (2) the sole issue is a federal or state law requiring an automatic change in services or medical assistance which adversely affects some or all recipients.

For the purposes of administering health care services and medical assistance, the State Director of Health Services shall have those powers and duties conferred on the Director of Social Services by this chapter to conduct state hearings in order to secure approval of a state plan under applicable federal law.

The State Director of Health Services may contract with the State Department of Social Services for the provisions of state hearings in accordance with this chapter.

As used in this chapter, "recipient" means an applicant for or recipient of public social services except aid exclusively financed by county funds or aid under Article 1 (commencing with Section 12000) to Article 6 (commencing with Section 12250), inclusive, of Chapter 3 of Part 3, and under Article 8 (commencing with Section 12350) of Chapter 3 of Part 3, or those activities conducted under Chapter 6 (commencing with Section 18350) of Part 6.

SEC. 7. Section 13702 of the Welfare and Institutions Code is repealed.

SEC. 8. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 821

An act to amend Sections 21190 and 21191 of the Public Resources Code, and to amend Sections 5106 and 5107 of the Vehicle Code, relating to environmental protection.

[Approved by Governor October 11, 1991. Filed with Secretary of State October 14, 1991]

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

SECTION 1. Section 21190 of the Public Resources Code is amended to read:

21190. There is in this state the California Environmental Protection Program, which shall be concerned with the preservation and protection of California's environment. In this connection, the Legislature hereby finds and declares that, since the inception of the program pursuant to the Marks-Badham Environmental Protection and Research Act, the Department of Motor Vehicles has, in the course of issuing environmental license plates, consistently informed potential purchasers of those plates, by means of a detailed brochure, of the manner in which the program functions, the particular purposes for which revenues from the issuance of those plates can lawfully be expended, and examples of particular projects and programs that have been financed by those revenues. Therefore, because of this representation by the Department of Motor Vehicles, purchasers come to expect and rely that the moneys paid by them will be expended only for those particular purposes, which results in an obligation on the part of the state to expend the revenues only for those particular purposes.

Accordingly, all funds expended pursuant to this division shall be used only to support identifiable projects and programs of state agencies, cities, cities and counties, counties, districts, the University of California, private nonprofit environmental and land acquisition organizations, and private research organizations which have a clearly defined benefit to the people of the State of California and which have one or more of the following purposes:

(a) The control and abatement of air pollution, including all phases of research into the sources, dynamics, and effects of environmental pollutants.

(b) The acquisition, preservation, restoration, or any combination thereof, of natural areas or ecological reserves.

(c) Environmental education, including formal school programs and informal public education programs. The State Department of Education may administer moneys appropriated for these programs, but shall distribute not less than 90 percent of moneys appropriated for the purposes of this subdivision to fund environmental education programs of school districts, other local schools, state agencies other than the State Department of Education, and community

organizations. Not more than 10 percent of the moneys appropriated for environmental education may be used for State Department of Education programs or defraying administrative costs.

(d) Protection of nongame species and threatened and endangered plants and animals.

(e) Protection, enhancement, and restoration of fish and wildlife habitat and related water quality, including review of the potential impact of development activities and land use changes on that habitat.

(f) The purchase, on an opportunity basis, of real property consisting of sensitive natural areas for the state park system and for local and regional parks.

(g) Reduction or minimization of the effects of soil erosion and the discharge of sediment into the waters of the Lake Tahoe region, including the restoration of disturbed wetlands and stream environment zones, through projects by the California Tahoe Conservancy and grants to local public agencies, state agencies, federal agencies, and nonprofit organizations.

SEC. 2. Section 21191 of the Public Resources Code is amended to read:

21191. (a) The California Environmental License Plate Fund which supersedes the California Environmental Protection Program Fund is continued in existence in the State Treasury, and consists of the moneys deposited in the fund pursuant to any provision of law. The Legislature shall establish the amount of fees for environmental license plates, which shall be not less than forty dollars ($40) for the issuance or twenty-five dollars ($25) for the renewal of an environmental license plate.

(b) The Controller shall transfer from the California Environmental License Plate Fund to the Motor Vehicle Account in the State Transportation Fund the amount appropriated by the Legislature for the reimbursement of costs incurred by the Department of Motor Vehicles in performing its duties pursuant to Sections 5004, 5004.5, and 5022 and Article 8.5 (commencing with Section 5100) of Chapter 1 of Division 3 of the Vehicle Code. The reimbursement from the California Environmental License Plate Fund shall only include those additional costs which are directly attributable to any additional duties or special handling necessary for the issuance, renewal, or retention of the environmental license plates.

(c) The Controller shall transfer to the post fund of the Veterans' Home of California, established pursuant to Section 1047 of the Military and Veterans Code, all revenue derived from the issuance of prisoner of war special license plates pursuant to Section 5101.5 of the Vehicle Code less the administrative costs of the Department of Motor Vehicles in that regard.

(d) The Director of Motor Vehicles shall certify the amounts of the administrative costs of the Department of Motor Vehicles in subdivision (c) to the Controller.

(e) The balance of the moneys in the California Environmental License Plate Fund shall be available for expenditure only for the exclusive trust purposes specified in Section 21190, upon appropriation by the Legislature. However, all moneys derived from the issuance of commemorative 1984 Olympic reflectorized license plates in the California Environmental License Plate Fund shall be used only for capital outlay purposes.

(f) All proposed appropriations for the program shall be summarized in a section in the Governor's Budget for each fiscal year and shall bear the caption "California Environmental Protection Program." The section shall contain a separate description of each project for which an appropriation is made. All such appropriations shall be made to the department performing the project and accounted for separately.

(g) The budget the Governor presents to the Legislature pursuant to subdivision (a) of Section 12 of Article IV of the California Constitution shall include, as proposed appropriations for the California Environmental Protection Program, only projects and programs recommended for funding by the Secretary of the Resources Agency pursuant to subdivision (a) of Section 21193. The Secretary of the Resources Agency shall consult with the Secretary for Environmental Protection before making any recommendations to fund projects pursuant to subdivision (a) of Section 21190.

SEC. 3. Section 5106 of the Vehicle Code is amended to read:

5106. (a) Except as provided in Section 5101.7, in addition to the regular registration fee, the applicant shall be charged a fee of forty dollars ($40).

(b) In addition to the regular renewal fee for the vehicle to which the plates are assigned, the applicant for a renewal of the plates shall be charged an additional fee of twenty-five dollars ($25). However, applicants for renewal of prisoner-of-war special license plates issued pursuant to Section 5101.5 shall not be charged the additional renewal fee under this subdivision.

(c) Notwithstanding subdivision (b), when payment of renewal fees is not required as specified in Section 4000, the holder of any environmental license plate may retain the plate upon payment of an annual fee of twenty-five dollars ($25). The fee shall be due at the expiration of the registration year of the vehicle to which the environmental license plate was last assigned.

(d) Notwithstanding Section 9265, the applicant for a duplicate environmental license plate or a duplicate, replacement commemorative 1984 Olympic reflectorized license plate shall be charged a fee of thirty dollars ($30).

SEC. 4. Section 5107 of the Vehicle Code is amended to read:

5107. (a) All revenue derived from the fees provided for in this article shall be deposited in the California Environmental License Plate Fund.

(b) Not more than fifty cents ($0.50) of the amount collected from each applicant pursuant to Section 5106 on and after January 1, 1992,

shall be set aside for use, upon appropriation by the Legislature, by the Resources Agency for the purpose of increasing public awareness of the environmental license plate program through the mass media. The agency shall utilize radio, television, newspapers, and billboards for that purpose. This subdivision shall remain operative only until January 1, 1995.

CHAPTER 822

An act to amend Section 40501 of, to amend and renumber Section 40501.1 of, and to add Section 40501.1 to, the Health and Safety Code, relating to air pollution, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 11, 1991. Filed with Secretary of State October 14, 1991]

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

SECTION 1. Section 40501 of the Health and Safety Code is amended to read:

40501. (a) The south coast district board shall appoint a hearing board, or may authorize the board of supervisors of each county included, in whole or in part, within the south coast district to appoint a hearing board in accordance with Article 1 (commencing with Section 40800) of Chapter 8. The hearing board shall have the powers and duties vested in the hearing board of a county district, except as modified in this article. In addition, the hearing board has the same powers and duties with respect to plans for the control of emissions of air contaminants required by a district rule or regulation as it has for permits for authority to construct or operate any article, machine, equipment, or other contrivance required by the south coast district board.

(b) The granting of variances shall be processed by the hearing board in the county in which the variance is applicable unless the applicant and the hearing board agree otherwise, and shall be granted in conformance with the rules and regulations of the south coast district, and, except as modified by this article, with Article 2 (commencing with Section 42350) of Chapter 4 of Part 4, with respect to the granting of variances or the appeal of decisions.

SEC. 2. Section 40501.1 of the Health and Safety Code is amended and renumbered to read:

40501.3. (a) Notwithstanding any other provision of this division, the south coast district board may authorize, by resolution, the holding of single-member hearings by the chairman of the hearing board and any other member or alternate designated by the hearing board, under the conditions specified in this section.

(b) Single-member hearings shall be authorized, when stipulated

to by the executive officer and the petitioner, only for the purpose of hearing petitions for emergency variances pursuant to Section 42359.5, interim variances pursuant to Section 42351, short variances and modifications of a schedule of increments of progress of a duration not to exceed 60 days pursuant to Section 40825, interim authorizations pursuant to Section 42351.5, and modifications of variances pursuant to Section 42356 which do not modify the final compliance date.

(c) The procedure for conducting single-member hearings shall be the same as for hearings before the full board and all legal requirements, including notice requirements, findings, and conditions, shall apply, except that the single member may take action on any matter properly before the member.

(d) A single-member hearing decision may be contested by (1) any person who, in person or through a representative, appeared at the single-member hearing, or (2) any person who informed the air pollution control officer of the nature of his concern prior to the hearing, or (3) any person who for good cause was unable to do either (1) or (2). If a decision is contested under this subdivision, the matter shall be reheard by the full board within 10 days of the decision. The clerk of the hearing board shall notify the petitioner, the executive officer, and all members of the public who appeared at the hearing of any contest of a decision. The notice shall be in writing and sent by first-class mail, postage prepaid, to the address supplied by the person who appeared, unless the right to the notice is affirmatively waived on the record.

SEC. 3. Section 40501.1 is added to the Health and Safety Code, to read:

40501.1. (a) On or before July 1, 1992, the south coast district board shall retire the current hearing board and appoint in its place a new hearing board with the following membership and qualifications:

(1) One member admitted to the practice of law in this state, with two or more years of practice, preferably with litigation experience.

(2) One member who is an engineer with a bachelor's degree from an accredited college in chemical, mechanical, environmental, metallurgical, or petroleum engineering, with two or more years of practical experience, and preferably who is a professional engineer registered pursuant to the Professional Engineers Act (Chapter 7 (commencing with Section 6700) of Division 3 of the Business and Professions Code).

(3) One member who is a licensed physician, with two or more years of practical experience, preferably in the fields of epidemiology, physiology, toxicology, or related fields.

(4) Two public members.

(b) In recruiting the hearing board members, the district board shall engage in positive outreach throughout the south coast district. In making these appointments, the district board shall receive recommendations of an advisory committee whose responsibility shall be to review and make recommendations to the appropriate

district board committee, which in turn shall finalize recommendations on which the district board shall act in making appointments to the hearing board. The advisory committee shall be composed of one representative appointed by each of the Counties of Los Angeles, Orange, Riverside, and San Bernardino, and the City of Los Angeles. Members of the advisory committee shall be appointed for one-year terms. Recommendations of the advisory committee shall not be binding on the district board.

(c) When the south coast district board first appoints the new hearing board, the attorney and engineer members shall serve terms of two years each and the medical and public members shall serve terms of three years each. Thereafter, each member's term shall be three years.

(d) In the temporary absence of a member and that person's alternate, the hearing board chair, or the chair's designee, may appoint a qualified alternate or any former hearing board member to serve for a period of up to three months plus that period of additional time required to conclude proceedings on which the temporary member deliberated.

(e) The district budget shall have a line item to provide necessary staff and other support dedicated to the hearing board. The services provided by that staff shall include assistance to the public and small business as set forth in subdivision (b) of Section 40448.

SEC. 4. Notwithstanding Section 40501.1 of the Health and Safety Code, members of the current hearing board of the South Coast Air Quality Management District shall continue to serve in their official capacity on those matters in which hearings are in progress on the date the current hearing board is retired, and until those matters are decided pursuant to Article 4 (commencing with Section 40860) of Chapter 8 of Division 26 of the Health and Safety Code.

SEC. 5. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

Due to a substantial increase in the workload of the hearing board of the South Coast Air Quality Management District, in order to enable the hearing board to conduct its proceedings in a fair manner, process variances expeditiously, improve consistency in the administrative decisionmaking process, and protect the due process rights of parties before the board, it is necessary that this act take effect immediately.

CHAPTER 823

An act to add Sections 5506.9, 5538.9, and 5539.9 to the Public Resources Code, relating to parks and recreation.

[Approved by Governor October 11, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 5506.9 is added to the Public Resources Code, to read:

5506.9. (a) Proceedings for the formation of a regional park and open-space or regional open-space district with boundaries coterminous with those of Los Angeles County may be initiated by resolution of the Board of Supervisors of the County of Los Angeles adopted after a hearing noticed in accordance with Section 6064 of the Government Code, in lieu of the petition and proceedings related to the petition as specified in this article.

(b) For purposes of this section and Sections 5538.9 and 5539.9, "the regional district" means a district that contains all of the territory within Los Angeles County, including all incorporated cities.

(c) The resolution described in subdivision (a) shall do all of the following:

(1) Name the regional district and state the reasons for forming it.

(2) Specify that the Board of Supervisors of the County of Los Angeles shall act, ex officio, as the governing body of the regional district. The provisions of this article pertaining to district directors do not apply, and all powers and authority of the regional district shall be vested in the board of supervisors in its capacity as the governing body of the regional district.

(3) Describe the territory to be included in the proposed regional district.

(4) Describe the methods by which the district will be financed.

(5) Specify that all revenue generated by the regional district, including the proceeds from the issuance of any bonds, shall be allocated among all affected public agencies within the district, for expenditure consistent with the purposes of this article, to adequately address the needs defined in Section 5539.9. For the purposes of this section, "all affected public agencies" means the County of Los Angeles, all incorporated cities within the county, and any regional state agency established for the purpose of acquiring land for park, recreation, open-space, and conservation purposes.

(6) Call and give notice of an election to be held in the proposed regional district for the purpose of determining whether the proposed regional district shall be created and established.

(7) State that, in each of the first 20 years after the date an

assessment is levied pursuant to subdivision (c) of Section 5539.9, a minimum of 80 percent of all proceeds of assessments levied by the regional district shall be used for capital outlay projects, including, but not limited to, acquisition and improvement of real property. For purposes of this subdivision, capital outlay projects include the servicing of bonds issued pursuant to Section 5539.9.

(8) Include an expenditure plan consisting of a list of capital outlay projects including acquisition areas and a general description of proposed outlays for operations and maintenance to be funded over a 20-year period of time from the date on which the assessment is first levied with proceeds of assessments levied by the regional district.

(9) State the proposed rate and method of apportionment to be used in levying annual assessments for all categories of property.

(10) Include any other matters determined to be necessary by the board of supervisors.

(d) The regional district shall be created and established if a majority of voters voting on the proposition vote in favor of creating the district.

(e) No proceeds from any bonds issued pursuant to Section 5539.9 shall be used for any operations, maintenance, or servicing purposes, except that bond proceeds may be used to pay all costs incidental to the preparation and issuance of the bonds.

(f) Any funds generated by the district and used for maintenance and servicing shall be used only to maintain and service capital outlay projects funded pursuant to this section. Funds provided for maintenance and servicing shall be used to supplement existing levels of service and not to fund existing levels of service.

(g) Assessments shall be levied not longer than the last maturity date of any bonds issued pursuant to Section 5539.9 and shall be levied not longer than 30 years from the date on which the assessment is first levied.

SEC. 2. Section 5538.9 is added to the Public Resources Code, to read:

5538.9. If the regional district is created and established in Los Angeles County, officers and employees of the County of Los Angeles may act, ex officio, as officers and employees of the regional district and may discharge the authority and responsibility specified in this article. The County of Los Angeles may provide the services and facilities needed to carry out the functions of the regional district. Proceeds of assessments levied pursuant to Section 5539.9 may be used to reimburse the county for the actual costs of these services and facilities.

SEC. 3. Section 5539.9 is added to the Public Resources Code, to read:

5539.9. (a) In addition to the authority conferred in Section 5539.5, all provisions of the Landscaping and Lighting Act of 1972 (Part 2 (commencing with Section 22500) of Division 15 of the Streets and Highways Code), except Sections 22605, 22609, and 22610

of, and Chapter 3 (commencing with Section 22620) of Part 2 of Division 15 of, the Streets and Highways Code, are, to the extent not inconsistent with or superseded by this section, applicable to the regional district if created and established in Los Angeles County, except as follows:

(1) Article 2 (commencing with Section 22605) of Chapter 2 of Part 2 of Division 15 of the Streets and Highways Code shall not apply.

(2) No changes shall be made pursuant to Chapter 3 of Part 2 of Division 15 of the Streets and Highways Code or Section 5572 of this code with respect to the rate and method of apportionment of assessments, the use of proceeds of assessments, the use of proceeds of bonds, and the territory included within the district, except that the governing body may correct errors in assessments, rule on appeals of assessments against particular parcels, and annually adjust the assessments levied against particular parcels of real property to reflect changes in the uses of those parcels.

(3) No changes shall be made to the rate and method of apportionment of any assessment approved by the voters and levied pursuant to this section.

(4) Article 4 (commencing with Section 22565) of Chapter 1 of Part 2 of Division 15 of the Streets and Highways Code shall apply to a regional district created pursuant to Section 5506.9, and, in addition to the items listed in that article, the annual report shall include all of the following:

(A) Changes in the total number of parcels assessed and changes in the number of parcels with respect to use code.

(B) Amount of funds to be generated by the regional district in the next fiscal year.

(C) The proposed allocation of funds for maintenance and servicing for the next fiscal year.

(D) The disposition of funds generated by the regional district in the current fiscal year. Whenever the public interest or convenience requires, the regional district may, at the discretion of its governing body, use any or all provisions of that act to carry out any purpose of the regional district.

(b) For the purposes of the regional district, any notice required to be published pursuant to the Landscaping and Lighting Act of 1972 (Part 2 (commencing with Section 22500) of Division 15 of the Streets and Highways Code) or pursuant to Section 5511 shall be published pursuant to Section 6064 of the Government Code.

(c) Notwithstanding subdivision (a), the governing body of the regional district shall not levy any assessment pursuant to the Landscaping and Lighting Act of 1972 unless a proposition authorizing the regional district to levy the assessments is first approved by a majority of the voters voting on the proposition. The Board of Supervisors of Los Angeles County may consolidate a proposition submitted to the voters pursuant to this subdivision into a single ballot measure with the proposal to determine whether to

create and establish a regional district pursuant to paragraph (6) of subdivision (c) of Section 5506.9. Notwithstanding Section 5518, the County Counsel of the County of Los Angeles shall prepare the language in the ballot label. The proposition shall specify the matters set forth in the resolution adopted pursuant to subdivision (c) of Section 5506.9, except paragraph (6) thereof. Notwithstanding any other provision in the Landscaping and Lighting Act of 1972, any assessments proposed pursuant to that act shall be deemed levied upon approval of a majority of the voters voting on the proposition.

(d) (1) Notwithstanding any other provisions in the Landscaping and Lighting Act of 1972, all proceeds of assessments levied or bonds issued by the regional district shall be allocated in accordance with paragraphs (5) and (8) of subdivision (c) of Section 5506.9.

(2) No levy of any additional assessments pursuant to this section, including any levy of any assessment beyond the maximum time periods for which assessments are authorized pursuant to Section 5506.9, may be authorized unless a proposition, including the provisions specified in paragraphs (5), (8), and (9) of subdivision (c) of Section 5506.9, is approved by a majority of the voters in the regional district voting on the proposition. Any future expenditure plan shall include a division of funds between capital outlay and maintenance and servicing, and a list of capital outlay projects and acquisition areas. No future expenditure plan shall contain any provision which could impair the payment of debt service on bonds or other evidence of indebtedness previously issued pursuant to this section. Notwithstanding any provision of the Landscaping and Lighting Act of 1972, any assessment levied pursuant to this section may include an annual amount to pay the costs of maintenance and servicing of the capital outlay projects funded pursuant to Section 5506.9, and may be collected in annual installments.

(e) Prior to the election required by subdivision (c), the Board of Supervisors of Los Angeles County may undertake proceedings on behalf of the proposed regional district in accordance with Part 2 (commencing with Section 22500) of Division 15 of the Streets and Highways Code to create an assessment district with the same boundaries as the proposed regional district. Hearings required pursuant to Part 2 (commencing with Section 22500) of Division 15 of the Streets and Highways Code may be consolidated with those required pursuant to this division. Those proceedings shall be deemed to be the proceedings required by Part 2 (commencing with Section 22500) of Division 15 of the Streets and Highways Code.

(f) The governing body may exempt from the assessment any uninhabited parcel substantially used in agriculture and any parcel enforceably restricted as open-space land during the time in which the parcel is so used or restricted, if the governing body determines that these parcels will not benefit from the expenditure of the proceeds of assessments.

(g) The formation of a regional district with boundaries coterminous with those of Los Angeles County is not subject to

Section 5517.1 or to the Cortese-Knox Local Government Reorganization Act of 1985 (Division 3 (commencing with Section 56000) of Title 5 of the Government Code).

(h) Notwithstanding any other provision in the acts specified in Section 5539.5 and in subdivision (a), the net amount to be assessed upon lands within an assessment district may be apportioned by any formula or method which fairly distributes the net amount among all assessable lots or parcels in proportion to the estimated benefits to be received by each lot or parcel from the improvements.

(i) Analysis and review of the measure submitted to the voters pursuant to subdivision (c) shall be carried out pursuant to Section 3781 of the Elections Code.

(j) The Legislature hereby finds and declares that the land acquisition, improvements, and services provided by the regional district, if created and established, will specially benefit the properties assessed and the persons paying the assessments authorized in this section in at least the following respects:

(1) Enhanced recreational opportunities and expanded access to recreational facilities for all residents throughout the district.

(2) Improved quality of life for all communities in the district by protecting, restoring, and improving the district's irreplaceable beach, wildlife, park, and open-space land.

(3) Preservation of mountains, foothills, and canyons and development of public access to these lands throughout the district.

(4) Protection of historical and cultural assets of the region.

(5) Increased economic activity and expanded employment opportunities within the regional district.

(6) Increased property values, resulting from the effects specified in this subdivision.

(7) Provision of benefits to all properties within the county, including positive impacts on air and water quality, capacity of roads, transportation and other public infrastructure systems, schools, and public utilities.

(k) The Legislature also finds and declares the following:

(1) The expansion, restoration, and improvement of park, recreation, beach, and open-space lands throughout Los Angeles County benefits all residents in the county.

(2) Protection, restoration, and improvement of these lands are vital to the quality of life for all residents in Los Angeles County.

(3) Increased park and recreation opportunities in the densely populated and heavily urbanized areas of Los Angeles County are vital to the health and well-being of all residents in the county, and providing these opportunities is a high priority.

(4) The protection and enhancement of the recreational opportunities provided by Los Angeles County's beaches, shoreline, and mountains must be included within the expenditure plan specified in subdivision (c) of Section 5506.9 in order to provide benefits to each resident of the county. The Legislature also finds and declares that, consistent with Division 23 (commencing with Section

33000), the Santa Monica Mountains Conservancy is a unique and valuable environmental, educational, and recreational resource; that as the last large undeveloped area within the greater Los Angeles metropolitan region it provides essential relief from the urban environment; and that the preservation and protection of this resource is in the public interest; and the Legislature further finds and declares that the acquisition of open-space lands by the conservancy provides a necessary benefit to each and every resident of Los Angeles County.

(5) The population of Los Angeles County continues to grow at an increasing rate, and already is far behind other urban areas in the state in providing adequate park, recreation, and open-space facilities for its residents. Creation of a regional park and open-space district with boundaries coterminous with those of Los Angeles County is critical to help address the growing and unmet park and recreation needs in Los Angeles County. It is, therefore, vital that Los Angeles County act immediately to address these issues.

SEC. 4. If any provision of this act or the application thereof is held invalid, that invalidity shall not affect other provisions or applications of this act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

CHAPTER 824

An act to amend Section 13823.95 of the Penal Code, relating to sexual assault.

[Approved by Governor October 11, 1991. Filed with Secretary of State October 14, 1991]

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

SECTION 1. Section 13823.95 of the Penal Code is amended to read:

13823.95. No costs incurred by a qualified health care professional, hospital, or other emergency medical facility for the examination of the victim of a sexual assault, as described in the protocol developed pursuant to Section 13823.5, when the examination is performed, pursuant to Sections 13823.5 and 13823.7, for the purposes of gathering evidence for possible prosecution, shall be charged directly or indirectly to the victim of the assault. Those costs shall be treated as local costs and charged to the local governmental agency in whose jurisdiction the alleged offense was committed.

Bills for these costs shall be submitted to the law enforcement agency in the jurisdiction in which the alleged offense was committed which requests the examination.

The law enforcement agency in the jurisdiction in which the alleged offense was committed which requests the examination has the option of determining whether or not the examination will be performed in the office of a physician and surgeon.

CHAPTER 825

An act to amend Sections 1193.6 and 1194 of, and to add Section 1194.2 to, the Labor Code, relating to minimum wage.

[Approved by Governor October 11, 1991 Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 1193.6 of the Labor Code is amended to read:

1193.6. (a) The department or division may, with or without the consent of the employee or employees affected, commence and prosecute a civil action to recover unpaid minimum wages or unpaid overtime compensation, including interest thereon, owing to any employee under this chapter or the orders of the commission, and, in addition to these wages, compensation, and interest shall be awarded reasonable attorney's fees, and costs of suit. The consent of any employee to the bringing of this action shall constitute a waiver on the part of the employee of his or her cause of action under Section 1194 unless the action is dismissed without prejudice by the department or the division.

(b) The amendments made to this section by the act adding this subdivision only shall apply to civil actions commenced on or after January 1, 1992.

SEC. 2. Section 1194 of the Labor Code is amended to read:

1194. (a) Notwithstanding any agreement to work for a lesser wage, any employee receiving less than the legal minimum wage or the legal overtime compensation applicable to the employee is entitled to recover in a civil action the unpaid balance of the full amount of this minimum wage or overtime compensation, including interest thereon, reasonable attorney's fees, and costs of suit.

(b) The amendments made to this section by the act adding this subdivision only shall apply to civil actions commenced on or after January 1, 1992.

SEC. 3. Section 1194.2 is added to the Labor Code, to read:

1194.2. (a) In any action under Section 1193.6 or Section 1194 to recover wages because of the payment of a wage less than the minimum wage fixed by an order of the commission, an employee shall be entitled to recover liquidated damages in an amount equal to the wages unlawfully unpaid and interest thereon. Nothing in this subdivision shall be construed to authorize the recovery of liquidated

damages for failure to pay overtime compensation.

(b) Notwithstanding subdivision (a), if the employer demonstrates to the satisfaction of the court that the act or omission giving rise to the action was in good faith and that the employer had reasonable grounds for believing that the act or omission was not a violation of any provision of the Labor Code relating to minimum wage, or an order of the commission, the court may, in its discretion, refuse to award liquidated damages or award any amount of liquidated damages not exceeding the amount specified in subdivision (a).

(c) This section only shall apply to civil actions commenced on or after January 1, 1992.

CHAPTER 826

An act to add Article 7.5 (commencing with Section 69630) to Chapter 2 of Part 42 of the Education Code, relating to postsecondary education.

[Approved by Governor October 11, 1991. Filed with Secretary of State October 14, 1991]

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

SECTION 1. Article 7.5 (commencing with Section 69630) is added to Chapter 2 of Part 42 of the Education Code, to read:

Article 7.5. Child Development Teacher Loan Assumption Program

69630. The Legislature finds and declares all of the following:

(a) There is a growing shortage of trained child development professional teachers, and a growing turnover of trained teachers leaving early childhood education for better paying professions. According to the 1989 National Child Care Staffing Study conducted by the California Child Care Employee Project:

(1) Nearly half of all child care teachers leave their jobs each year, many to seek better paying jobs. Sixty-six percent of teaching staff nationally view child care as a career, and not merely a job, but cannot provide for a family on a child care teacher's salary.

(2) The national average hourly wage for child care teaching staff in 1988 was five dollars and thirty-five cents ($5.35) per hour, or nine thousand three hundred sixty-three dollars ($9,363) annually. The 1988 national poverty threshold for a family of three was nine thousand four hundred thirty-one dollars ($9,431) annually.

(3) Fifty-seven percent of child care teachers nationally earned less than five dollars ($5) per hour, and most received no health, dental, retirement, or cost-of-living benefits.

(4) Despite gains in overall formal education and experience, the child care profession was paid less in 1988 than in 1977. Wages have declined 27 percent in the last 10 years.

(5) Nationally, 25 percent of full-time child care teachers work a second job to avoid poverty.

(6) The effects of staff turnover on children are severe: children are less engaged in social activities with peers and spend more time in aimless wandering patterns without contact with teachers. Children affected by staff turnover scored lower on the Peabody Picture Vocabulary Test compared with children with more stable teaching staff.

(7) There are few incentives for child care teachers to obtain more education training or experience because of poor working conditions.

(b) The Legislature hereby recognizes the severe shortage of, and the loss of, high-quality early childhood educators to other professions. The Legislature therefore promotes expansion of current federal and state college loan assumption and deferment programs in order to attract outstanding early childhood teachers into the public schools and community-based programs serving young children.

(c) The Legislature recognizes and declares that every child deserves quality early childhood experiences in environments with teachers who address his or her intellectual, social, emotional, physical, and cognitive needs.

(d) The Legislature recognizes that high turnover rates and unqualified teachers negatively impact the learning abilities, self-esteem, and sense of security of young children.

(e) The Legislature finds that child care professionals are in the bottom 10 percent of California wage earners, and that many are on the threshold of poverty, and that, therefore, incentives must be established to help quality early childhood teachers stay in the field.

(f) It is the intent of the Legislature that a teacher loan assumption program be designed to strongly encourage persons to enter into the field of early childhood education. This program shall be administered by the Student Aid Commission with participation by community colleges and public and private four-year higher education institutions.

(g) It is further the intent of the Legislature that applicants of the Child Development Teacher Loan Assumption Program shall work in licensed child care programs serving children at least 50 percent of whose families are eligible for state or federal child care subsidies or whose family income falls below 85 percent of the state median income. Federal and state child care subsidies, include, but are not limited to, those subsidies received pursuant to the Greater Avenues for Independence Act (GAIN) (Article 3.2 (commencing with Section 11320) of Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions Code), the Transitional Child Care Program (Article 8 (commencing with Section 11500) of Chapter 2 of Part 3 of Division

9 of the Welfare and Institutions Code), Title IV-A, including AFDC Income Disregard (42 U.S.C. Sec. 601 et seq.), the Job Training Partnership Act (29 U.S.C. Sec. 1501 et seq., including Sec. 602(a)(8)(A)(iv)), the Head Start Act (42 U.S.C. Sec. 9831 et seq.), federal child care and development block grants, and state-subsidized programs under the State Department of Education. Families who receive private subsidies may also be eligible if the family's income falls below 85 percent of the state median income.

69631. There is hereby established the Child Development Teacher Loan Assumption Program, to be administered by the Student Aid Commission with participation by students attending the California Community Colleges and public and private four-year higher education institutions. Participants shall agree to teach or supervise in the field of child care and development in exchange for assumption of both state and federal loans.

69632. (a) For purposes of this article, "licensed children's center" means a public school district-based, nonprofit community-based, or private proprietary program licensed by the State Department of Social Services under the health and safety requirements of Title 22 of the California Code of Regulations or administered by the State Department of Education under Title 5 of the California Code of Regulations. Licensed children's centers include federal and state-subsidized and nonsubsidized child care, child development, or preschool programs serving children part-day or full-day.

(b) Teachers and supervisors working in nonsubsidized licensed child care programs shall certify that at least 50 percent of the families of children participating in the program are either eligible for federal or state child care subsidies or the families' income falls below 85 percent of the state median income.

69633. (a) Participants shall either be working toward an approved course of study leading to the Regular Children's Center Instructional Permit or shall hold the Regular Children's Center Instructional Permit and be enrolled in an academic program leading to a baccalaureate degree, including the program requirements to obtain the Supervisory Children's Instructional Permit.

(b) Participants shall be selected on the basis of their outstanding academic ability, which shall include, but not be limited to, overall high school grade point average, academic test scores, letter of recommendation from the student's department advisor, and college grade point average.

(c) Participants shall be enrolled in at least 12 semester units or the equivalent each semester and maintain satisfactory progress of a "C" grade point average or above.

(d) Exceptions to the minimum enrollment requirement include participants who are employed as teacher aides, instructional aides, or teacher assistants in child care and development programs,

including college laboratory infant and child care centers, or students who work full time in a different field. These participants shall maintain at least half time status as defined by the institution attended in order to qualify for the loan assumption program.

(e) Advanced notification and written request shall be submitted to, and approved by, the Student Aid Commission before the applicant may transfer to another institution.

(f) Participants may apply for a leave of absence only in case of emergency or natural causes such as serious illness or pregnancy which prevents participation. A leave of absence may be approved for no more than one academic year.

69634. (a) (1) After verification to an authorized school official and the Student Aid Commission that a participant has completed, or will complete by the end of the current semester, a minimum of 12 credit units toward the Regular Children's Center Instructional Permit or the Supervisory Children's Center Permit, a conditional warrant for loan assumption shall be signed by the participant agreeing to teach or supervise full time for two years in a licensed children's center which serves children at least 50 percent of whose families are eligible for state or federal child care subsidies or whose family income falls below 85 percent of the state median income.

(2) After each year of work in a licensed children's center, participants shall certify to the Student Aid Commission that at least 50 percent of the families of children participating in the program are either eligible for federal or state child care subsidies or the families' income falls below 85 percent of the state median income. Certification by the participant may include verification from the center that parents of children participating in the program receive federal or state child care subsidies or meet the income guideline. For purposes of determining whether the 50 percent low income eligibility requirement is met, a licensed children's center may utilize both the number of families receiving federal or state child care subsidies and the number of families whose income falls below 85 percent of the state median income. The participant's warrant shall remain valid even if the licensed children's center subsequently ceases to meet the 50 percent eligibility requirement.

(b) Participants shall be required to teach or supervise with the same employer for each year of loan assumption, and employment shall be consecutive for the two-year loan assumption program. A year of employment may be based on either a calendar year or school year. A participant shall submit an employment verification form after each year of teaching or supervisory service, to be completed by an authorized school official and to be submitted to the Student Aid Commission before the participant is eligible for loan assumption. Participants shall be required to provide their designated service within three years of completing the coursework for the instructional or supervisory permit for each consecutive year.

(c) Loans eligible for assumption include the Stafford Student Loan Program, the Perkins Loan Program, Supplemental Loans for

Students, the Loan Consolidation Program, or any other loan program approved by the Student Aid Commission.

(d) Participants shall demonstrate that they have received, or have been approved to receive, loans which are eligible for assumption.

69635. (a) It is the intent of the Legislature that 100 loan assumption warrants be awarded each year. It is the intent of the Legislature that the Student Aid Commission attempt to recruit and select some applicants for loan assumption who have proficient bilingual skills.

(b) Eighty percent of these warrants shall be granted to participants working toward a Regular Children's Center Instructional Permit.

(c) Twenty percent of these warrants shall be granted to participants working toward a Supervisory Children's Center Instructional Permit.

(d) For participants awarded the Regular Children's Center Instructional Permit, the state shall assume up to one thousand dollars ($1,000) of the participant's outstanding liability under one or more of the loan programs designated in subdivision (c) of Section 69634 for each of the two years of teaching required, to a maximum of two thousand dollars ($2,000).

(e) For participants awarded the Supervisory Children's Center Instructional Permit, the state shall assume up to two thousand dollars ($2,000) of the participant's outstanding liability under one or more of the loan programs designated in subdivision (c) of Section 69634 for each of the two years of teaching or supervisory service required, to a maximum of four thousand dollars ($4,000).

69636. (a) To the extent permitted by federal law, federal funds received, designated for, or permitted to be used for the training, retention, or improvement of quality in the child care profession shall be used to fully fund the Child Development Teacher Loan Assumption Program on an annual basis.

(b) In order to accomplish the purposes set forth in subdivision (a), commencing January 1, 1992, the Controller, the State Department of Education, or any other state agency receiving funds from the Child Care Development Block Grant Act of 1990, (P.L. 97-35), shall make these funds available to the Student Aid Commission for this program only to the extent this program is incorporated into, and approved in, the state plan, established pursuant to subsection (a) of Section 658E of Subchapter C as contained in Section 5082 of the Omnibus Budget Reconciliation Act of 1990 (P.L. 101-508).

(c) The State Department of Education shall enter into an interagency agreement with the Student Aid Commission to allocate federal funds received annually for purposes of this program. Commencing in 1992, the Student Aid Commission shall retain unexpended funds to be used for future loan assumption obligations.

(d) On or before January 1, 1995, and every three years thereafter,

the Student Aid Commission shall report to the State Department of Education regarding the federal funding level required to maintain 100 loan assumption awards. The Student Aid Commission and the State Department of Education shall work together through the budget process to ensure that the appropriate funding level is met. The State Department of Education shall notify the Student Aid Commission of any revision to the federal funding level and shall reflect this revision in the state plan.

(e) This article shall not be implemented unless and until federal funds are made available for the purposes of implementing this article.

69637. The Student Aid Commission shall administer the Child Development Teacher Loan Assumption Program. This includes determining the criteria for ineligible loans, repayment obligations on outstanding loans, delinquent or defaulted loans, loan balance verification, and the process for loan assumption payments, including loan payoff priorities. The Student Aid Commission shall also determine criteria for requirements related to participant status or changes in status.

It is the intent of the Legislature that the Student Aid Commission consult with child care and development representatives of statewide organizations and colleges regarding the development of the program.

69638. The Student Aid Commission shall disseminate information about the Child Development Teacher Loan Assumption Program to eligible institutions of higher education, including private colleges and universities, the University of California, the California State University, and the California Community Colleges.

69639. The Student Aid Commission shall report to the Governor and Legislature by January 1, 1995, on the Child Development Teacher Loan Assumption Program, to assess the following:

(a) Number of applicants annually.

(b) Number of participants annually.

(c) Types of children's programs selected by participants.

(d) Rate of compliance with academic and employment requirements.

(e) Participating institutions of higher education.

(f) Needs assessment for program growth based on the eligible pool of applicants.

(g) Participation and success rates for each permit.

CHAPTER 827

An act to add Section 1373.18 to the Health and Safety Code, and to add Sections 10133.2, 10133.3, and 11512.04 to the Insurance Code, relating to health coverage.

[Approved by Governor October 11, 1991 Filed with Secretary of State October 14, 1991]

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

SECTION 1. Section 1373.18 is added to the Health and Safety Code, to read:

1373.18. Whenever any health care service plan, except a specialized health care service plan, negotiates and enters into a contract with providers to provide services at alternative rates of payment of the type described in Sections 10133 and 11512 of the Insurance Code, and enrollee copayments are to be based upon a percentage of the fee for services to be rendered, the amount of the enrollee copayment shall be calculated exclusively from the negotiated alternative rate for the service rendered. No health care service plan or provider, negotiating and entering into a contract pursuant to this section, shall charge or collect copayment amounts greater than those calculated in accordance with this section.

This section shall become operative on January 1, 1993.

SEC. 1.5. Section 10133.2 is added to the Insurance Code, to read:

10133.2. When any disability insurer negotiates and enters into a contract with professional or institutional providers to provide services at alternative rates of payment of the type described in Sections 10133 and 11512 of the Insurance Code, the amount of patient copayment shall be calculated exclusively from the negotiated alternative rate for the service rendered. No disability insurer or professional or institutional provider, negotiating and entering into a contract pursuant to this section, shall charge or collect copayment amounts greater than those calculated in accordance with this section.

This section shall become operative on January 1, 1993.

SEC. 2. Section 10133.3 is added to the Insurance Code, to read:

10133.3. When any self-insured governmental plan, as defined in Section 12671, negotiates and enters into a contract with professional or institutional providers to provide services at alternative rates of payment of the type described in Sections 10133 and 11512 of the Insurance Code, the amount of patient copayment shall be calculated exclusively from the negotiated alternative rate for the service rendered. No self-insured governmental plan or professional or institutional provider, negotiating and entering into a contract pursuant to this section, shall charge or collect copayment amounts greater than those calculated in accordance with this section.

This section shall become operative on January 1, 1993.

SEC. 3. Section 11512.04 is added to the Insurance Code, to read:

11512.04. When any nonprofit hospital service plan negotiates and enters into a contract with professional or institutional providers to provide services at alternative rates of payment of the type described in Sections 10133 and 11512 of the Insurance Code, the amount of patient copayment shall be calculated exclusively from the negotiated alternative rate for the service rendered. No nonprofit hospital service plan or professional or institutional provider, negotiating and entering into a contract pursuant to this section, shall charge or collect copayment amounts greater than those calculated in accordance with this section.

This section shall become operative on January 1, 1993.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 828

An act to amend Section 3482.5 of the Civil Code, relating to nuisance.

[Approved by Governor October 11, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 3482.5 of the Civil Code is amended to read:

3482.5. (a) (1) No agricultural activity, operation, or facility, or appurtenances thereof, conducted or maintained for commercial purposes, and in a manner consistent with proper and accepted customs and standards, as established and followed by similar agricultural operations in the same locality, shall be or become a nuisance, private or public, due to any changed condition in or about the locality, after it has been in operation for more than three years if it was not a nuisance at the time it began.

(2) No activity of a district agricultural association that is operated in compliance with Division 3 (commencing with Section 3001) of the Food and Agricultural Code, shall be or become a private or public nuisance due to any changed condition in or about the locality, after it has been in operation for more than three years if it was not a nuisance at the time it began. This paragraph shall not apply to any

activities of the 52nd District Agricultural Association that are conducted on the grounds of the California Exposition and State Fair, nor to any public nuisance action brought by a city, county, or city and county alleging that the activities, operations, or conditions of a district agricultural association have substantially changed after more than three years from the time that the activities, operations, or conditions began.

(b) Paragraph (1) of subdivision (a) shall not apply if the agricultural activity, operation, or facility, or appurtenances thereof obstruct the free passage or use, in the customary manner, of any navigable lake, river, bay, stream, canal, or basin, or any public park, square, street, or highway.

(c) Paragraph (1) of subdivision (a) shall not invalidate any provision contained in the Health and Safety Code, Fish and Game Code, Food and Agricultural Code, or Division 7 (commencing with Section 13000) of the Water Code, if the agricultural activity, operation, or facility, or appurtenances thereof constitute a nuisance, public or private, as specifically defined or described in any of those provisions.

(d) This section shall prevail over any contrary provision of any ordinance or regulation of any political subdivision of the state.

(e) For purposes of this section, the term "agricultural activity, operation, or facility, or appurtenances thereof" shall include, but not be limited to, the cultivation and tillage of the soil, dairying, the production, cultivation, growing, and harvesting of any agricultural commodity including timber, viticulture, apiculture, or horticulture, the raising of livestock, fur bearing animals, fish, or poultry, and any practices performed by a farmer or on a farm as incident to or in conjunction with those farming operations, including preparation for market, delivery to storage or to market, or delivery to carriers for transportation to market.

CHAPTER 829

An act to add Chapter 12.7 (commencing with Section 25967) to Division 20 of the Health and Safety Code, relating to tobacco distribution.

[Approved by Governor October 11, 1991 Filed with Secretary of State October 14, 1991]

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

SECTION 1. Chapter 12.7 (commencing with Section 25967) is added to Division 20 of the Health and Safety Code, to read:

CHAPTER 12.7. TOBACCO DISTRIBUTION

25967. (a) The Legislature hereby finds and declares the following:

(1) Smoking is the single most important source of preventable disease and premature death in California.

(2) Smoking is responsible for one-quarter of all death caused by fire.

(3) Tobacco-related disease places a tremendous financial burden upon the persons with the disease, their families, the health care delivery system, and society as a whole.

(4) Despite laws in at least 44 states prohibiting the sale of tobacco products to minors, each day 3,000 children start using tobacco products in this nation. Children under the age of 18 consume 947 million packages of cigarettes in this country yearly.

(5) The earlier a child begins to use tobacco products, the more likely it is that the child will be unable to quit.

(6) More than 60 percent of all smokers begin smoking by the age of 14, and 90 percent begin by age 19.

(7) Use of smokeless tobacco products among minors in this state is increasing.

(8) Smokeless tobacco or chewing tobacco is harmful to the health of individuals and may cause gum disease, mouth or oral cancers, increased tooth decay and leukoplakia.

(9) Tobacco product advertising and promotion are an important cause of tobacco use among children. More money is spent advertising and promoting tobacco products than any other consumer product.

(10) Distribution of tobacco product samples and coupons is a recognized source by which minors obtain tobacco products, beginning the addiction process.

(11) It is the intent of the Legislature that keeping children from beginning to use tobacco products in any form and encouraging all persons to quit tobacco use shall be among the highest priorities in disease prevention for the State of California.

(b) It is unlawful for any person, agent, or employee of a person in the business of selling or distributing smokeless tobacco or cigarettes from engaging in the nonsale distribution of any smokeless tobacco or cigarettes to any person in any public building, park or playground, or on any public sidewalk, street, or other public grounds.

(c) For purposes of this section:

(1) "Nonsale distribution" means to give smokeless tobacco or cigarettes to the general public at no cost, or at nominal cost, or to give coupons or rebate offers for smokeless tobacco or cigarettes to the general public at no cost or at nominal cost. Distribution of tobacco products or coupons or rebate offers in connection with the sale of another item, including tobacco products, cigarette lighters, magazines, or newspapers shall not constitute nonsale distribution.

(2) "Smokeless tobacco" means (A) a loose or flat, compressed cake form of tobacco that may be chewed or held in the mouth or (B) a shredded, powdered, or pulverized form of tobacco that may be inhaled through the nostrils, chewed, or held in the mouth.

(3) "Public building, park, playground, sidewalk, street, or other public grounds" means any structure or outdoor area which is owned, operated, or maintained by any public entity, including, but not limited to: city and county streets and sidewalks, parade grounds, fair grounds, public transportation facilities and terminals, public reception areas, public health facilities, public recreational facilities, and public office buildings.

(d) Any person who violates this section shall be liable for a civil penalty of not less than two hundred dollars ($200) for one act, five hundred dollars ($500) for two acts, and one thousand dollars ($1,000) for each succeeding violation. Each distribution of a single package, coupon, or rebate offer to an individual member of the general public in violation of this section shall be considered a separate violation.

(e) Nothing contained in this section or any other provision of law shall invalidate an ordinance of, or be construed to prohibit the adoption of an ordinance by, a city or county regulating distribution of smokeless tobacco or cigarette samples within its boundaries which is more restrictive than this section. If this occurs, the more restrictive local ordinance shall control to the extent of any inconsistency between it and this section.

(f) This section shall not apply to any public building, park, playground, sidewalk, street, or other public grounds where minors are prohibited by law. This section also shall not apply to any public building, park, playground, sidewalk, street, or other public grounds leased for private functions where minors are denied access by a peace officer or licensed security guard on the premises.

CHAPTER 830

An act to amend Sections 7321, 7324, 7326, 7330, 7332, 7334, and 7335 of the Business and Professions Code, relating to cosmetology, and making an appropriation therefor.

[Approved by Governor October 11, 1991 Filed with Secretary of State October 14, 1991]

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

SECTION 1. Section 7321 of the Business and Professions Code, as added by Chapter 1672 of the Statutes of 1990, is amended to read:

7321. The board shall admit to examination for a license as a cosmetologist to practice cosmetology any person who has made application to the board in proper form, paid the fee required by this

chapter, and is qualified as follows:

(a) Is not less than 17 years of age.

(b) Has completed the 10th grade in the public schools of this state or its equivalent.

(c) Is not subject to denial pursuant to Section 480.

(d) Has done any of the following:

(1) Completed a course in cosmetology from a school approved by the board.

(2) Practiced cosmetology as defined in this chapter outside of this state for a period of five years.

(3) Holds a license as a barber in this state and has completed a cosmetology crossover course in a school approved by the board.

(4) Completed a barbering course in a school approved by the board and has completed a cosmetology crossover course in a school approved by the board.

(5) Completed the apprenticeship program in cosmetology specified in Article 4 (commencing with Section 7332).

SEC. 1.5. Section 7321 of the Business and Professions Code, as added by Chapter 1672 of the Statutes of 1990, is amended to read:

7321. The board shall admit to examination for a license as a cosmetologist to practice cosmetology any person who has made application to the board in proper form, paid the fee required by this chapter, and is qualified as follows:

(a) Is not less than 17 years of age.

(b) Has completed the 10th grade in the public schools of this state or its equivalent.

(c) Is not subject to denial pursuant to Section 480.

(d) Has done any of the following:

(1) Completed a course in cosmetology from a school approved by the board.

(2) Practiced cosmetology as defined in this chapter outside of this state for a period of time equivalent to the study and training of a qualified person who has completed a course in cosmetology from a school the curriculum of which complied with requirements adopted by the board. Each three months of practice shall be deemed the equivalent of 100 hours of training for qualification under paragraph (1) of this subdivision.

(3) Holds a license as a barber in this state and has completed a cosmetology crossover course in a school approved by the board.

(4) Completed a barbering course in a school approved by the board and has completed a cosmetology crossover course in a school approved by the board.

(5) Completed the apprenticeship program in cosmetology specified in Article 4 (commencing with Section 7332).

SEC. 2. Section 7324 of the Business and Professions Code, as added by Chapter 1672 of the Statutes of 1990, is amended to read:

7324. The board shall admit to examination for a license as an esthetician to practice skin care, any person who has made application to the board in proper form, paid the fee required by this

chapter, and is qualified as follows:

(a) Is not less than 17 years of age.

(b) Has completed the 10th grade in the public schools of this state or its equivalent.

(c) Is not subject to denial pursuant to Section 480.

(d) Has done any of the following:

(1) Completed a course in skin care from a school approved by the board.

(2) Practiced skin care, as defined in this chapter, outside of this state for a period of 18 months.

(3) Completed the apprenticeship program in skin care specified in Article 4 (commencing with Section 7332).

SEC. 2.5. Section 7324 of the Business and Professions Code, as added by Chapter 1672 of the Statutes of 1990, is amended to read:

7324. The board shall admit to examination for a license as an esthetician to practice skin care, any person who has made application to the board in proper form, paid the fee required by this chapter, and is qualified as follows:

(a) Is not less than 17 years of age.

(b) Has completed the 10th grade in the public schools of this state or its equivalent.

(c) Is not subject to denial pursuant to Section 480.

(d) Has done any of the following:

(1) Completed a course in skin care from a school approved by the board.

(2) Practiced skin care, as defined in this chapter, outside of this state for a period of time equivalent to the study and training of a qualified person who has completed a course in skin care from a school the curriculum of which complied with requirements adopted by the board. Each three months of practice shall be deemed the equivalent of 100 hours of training for qualification under paragraph (1).

(3) Completed the apprenticeship program in skin care specified in Article 4 (commencing with Section 7332).

SEC. 3. Section 7326 of the Business and Professions Code, as added by Chapter 1672 of the Statutes of 1990, is amended to read:

7326. The board shall admit to examination for a license as a manicurist to practice nail care, any person who has made application to the board in proper form, paid the fee required by this chapter, and is qualified as follows:

(a) Is not less than 17 years of age.

(b) Has completed the 10th grade in the public schools of this state or its equivalent.

(c) Is not subject to denial pursuant to Section 480.

(d) Has done any of the following:

(1) Completed a course in nail care from a school approved by the board.

(2) Practiced nail care, as defined in this chapter, outside of this state for a period of 10½ months.

(3) Completed the apprenticeship program in nail care specified in Article 4 (commencing with Section 7332).

SEC. 3.5. Section 7326 of the Business and Professions Code, as added by Chapter 1672 of the Statutes of 1990, is amended to read:

7326. The board shall admit to examination for a license as a manicurist to practice nail care, any person who has made application to the board in proper form, paid the fee required by this chapter, and is qualified as follows:

(a) Is not less than 17 years of age.

(b) Has completed the 10th grade in the public schools of this state or its equivalent.

(c) Is not subject to denial pursuant to Section 480.

(d) Has done any of the following:

(1) Completed a course in nail care from a school approved by the board.

(2) Practiced nail care, as defined in this chapter, outside of this state for a period of time equivalent to the study and training of a qualified person who has completed a course in nail care from a school the curriculum of which complied with requirements adopted by the board. Each three months of practice shall be deemed the equivalent of 100 hours of training for qualification under paragraph (1).

(3) Completed the apprenticeship program in nail care specified in Article 4 (commencing with Section 7332).

SEC. 4. Section 7330 of the Business and Professions Code, as added by Chapter 1672 of the Statutes of 1990, is amended to read:

7330. The board shall admit to examination for a license as an electrologist to practice electrolysis, any person who has made application to the board in proper form, paid the fee required by this chapter, and is qualified as follows:

(a) Is not less than 17 years of age.

(b) Has completed the 12th grade or an accredited senior high school course of study in public schools of this state or its equivalent.

(c) Is not subject to denial pursuant to Section 480.

(d) Has done any of the following:

(1) Completed a course of training in electrolysis from a school approved by the board.

(2) Practiced electrolysis, as defined in this chapter, for a period of 18 months outside of this state within the five years immediately preceding application.

(3) Completed the apprenticeship program in electrology specified in Article 4 (commencing with Section 7332).

SEC. 4.5. Section 7330 of the Business and Professions Code, as added by Chapter 1672 of the Statutes of 1990, is amended to read:

7330. The board shall admit to examination for a license as an electrologist to practice electrolysis, any person who has made application to the board in proper form, paid the fee required by this chapter, and is qualified as follows:

(a) Is not less than 17 years of age.

(b) Has completed the 12th grade or an accredited senior high school course of study in public schools of this state or its equivalent.

(c) Is not subject to denial pursuant to Section 480.

(d) Has done any of the following:

(1) Completed a course of training in electrolysis from a school approved by the board.

(2) Practiced electrolysis, as defined in this chapter, for a period of 18 months outside of this state within the time equivalent to the study and training of a qualified person who has completed a course in electrolysis from a school the curriculum of which complied with requirements adopted by the board. Each three months of practice shall be deemed the equivalent of 100 hours of training for qualification under paragraph (1).

(3) Competed the apprenticeship program in electrology specified in Article 4 (commencing with Section 7332).

SEC. 5. Section 7332 of the Business and Professions Code, as added by Chapter 1672 of the Statutes of 1990, is amended to read:

7332. An apprentice is any person who is licensed by the board to engage in learning or acquiring a knowledge of barbering, cosmetology, skin care, nail care, or electrology, in a licensed establishment under the supervision of a licensee approved by the board.

SEC. 6. Section 7334 of the Business and Professions Code, as added by Chapter 1672 of the Statutes of 1990, is amended to read:

7334. (a) The board may license as an apprentice in barbering, cosmetology, skin care, or nail care any person who has made application to the board upon the proper form, has paid the fee required by this chapter, and who is qualified as follows:

(1) Is over 16 years of age.

(2) Has completed the 10th grade in the public schools of this state or its equivalent.

(3) Is not subject to denial pursuant to Section 480.

(4) Has submitted evidence acceptable to the board that any training the apprentice is required by law to obtain shall be conducted in a licensed establishment and under the supervision of a licensee approved by the board.

(b) The board may license as an apprentice in electrolysis any person who has made application to the board upon the proper form, has paid the fee required by this chapter, and who is qualified as follows:

(1) Is not less than 17 years of age.

(2) Has completed the 12th grade or an accredited senior high school course of study in schools of this state or its equivalent.

(3) Is not subject to denial pursuant to Section 480.

(4) Has submitted evidence acceptable to the board that any training the apprentice is required by law to obtain shall be conducted in a licensed establishment and under the supervision of a licensee approved by the board.

(c) All persons making application as an apprentice in barbering

shall also complete a minimum of 39 hours of preapprentice training in a facility approved by the board prior to serving the general public.

(d) All persons making application as an apprentice in cosmetology, skin care, nail care, or electrology shall also complete minimum preapprentice training for the length of time established by the board in a facility approved by the board prior to serving the general public.

(e) Apprentices may only perform services on the general public for which they have received technical training.

(f) Apprentices shall be required to obtain at least the minimum hours of technical instruction and minimum number of practical operations for each subject as specified in board regulations for courses taught in schools approved by the board, in accordance with Sections 3074 and 3078 of the Labor Code.

SEC. 7. Section 7335 of the Business and Professions Code, as added by Chapter 1672 of the Statutes of 1990, is amended to read:

7335. The license of an apprentice shall expire two years from the date the license was issued, or on the date the apprentice is issued a license following the license examination, or if the apprentice fails the license examination twice, on the date the results of the second examination are issued, whichever occurs first.

No person holding a license as an apprentice shall work more than three months after completing the required training without applying for and taking the examination for licensure.

SEC. 8. Section 1.5 of this bill incorporates amendments to Section 7321 of the Business and Professions Code proposed by both this bill and AB 1161. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1992, (2) each bill amends Section 7321 of the Business and Professions Code, and (3) this bill is enacted after AB 1161, in which case Section 7321 of the Business and Professions Code, as amended by AB 1161, shall remain operative only until the operative date of this bill, at which time Section 1.5 of this bill shall become operative, and Section 1 of this bill shall not become operative.

SEC. 9. Section 2.5 of this bill incorporates amendments to Section 7324 of the Business and Professions Code proposed by both this bill and AB 1161. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1992, (2) each bill amends Section 7324 of the Business and Professions Code, and (3) this bill is enacted after AB 1161, in which case Section 7324 of the Business and Professions Code, as amended by AB 1161, shall remain operative only until the operative date of this bill, at which time Section 2.5 of this bill shall become operative, and Section 2 of this bill shall not become operative.

SEC. 10. Section 3.5 of this bill incorporates amendments to Section 7326 of the Business and Professions Code proposed by both this bill and AB 1161. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1992, (2)

each bill amends Section 7326 of the Business and Professions Code, and (3) this bill is enacted after AB 1161, in which case Section 7326 of the Business and Professions Code, as amended by AB 1161, shall remain operative only until the operative date of this bill, at which time Section 3.5 of this bill shall become operative, and Section 3 of this bill shall not become operative.

SEC. 11. Section 4.5 of this bill incorporates amendments to Section 7330 of the Business and Professions Code proposed by both this bill and AB 1161. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1992, (2) each bill amends Section 7330 of the Business and Professions Code, and (3) this bill is enacted after AB 1161, in which case Section 7330 of the Business and Professions Code, as amended by AB 1161, shall remain operative only until the operative date of this bill, at which time Section 4.5 of this bill shall become operative, and Section 4 of this bill shall not become operative.

SEC. 12. This act shall become operative on January 1, 1993.

CHAPTER 831

An act to amend Sections 9301, 9314, 9316, 9405, 9408, 9412, 9417, 9419, and 9521 of, to add Sections 9044, 9356, 9357, 9358, 9359, and 9403.5 of, to add Article 4 (commencing with Section 9201) to Chapter 3 of Division 9 of, to repeal and add Article 2 (commencing with Section 9161) and Article 3 (commencing with Section 9181) of Chapter 3 of Division 9 of, to repeal and add Sections 9352, 9413, and 9420 of, and to repeal Article 4 (commencing with Section 9211), Article 5 (commencing with Section 9241), and Article 6 (commencing with Section 9271) of Chapter 3 of Division 9 of, the Public Resources Code, relating to resource conservation.

[Approved by Governor October 11, 1991 Filed with Secretary of State October 14, 1991]

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

SECTION 1. Section 9044 is added to the Public Resources Code, to read:

9044. The Imperial Irrigation District may exercise the powers of a resource conservation district under this division in any area within its boundaries in which there is no resource conservation district organized and operating.

SEC. 2. Article 2 (commencing with Section 9161) of Chapter 3 of Division 9 of the Public Resources Code is repealed.

SEC. 3. Article 2 (commencing with Section 9161) is added to Chapter 3 of Division 9 of the Public Resources Code, to read:

Article 2. Initiation

9161. (a) A new district may be formed pursuant to this chapter.

(b) A proposal to form a district may be made by a petition of registered voters or by the adoption of a resolution of application.

9162. A proposal to form a new district may be made by petition which shall do all of the following:

(a) State that the proposal is made and request that proceedings be taken for the formation pursuant to this chapter.

(b) Set forth a description of the boundaries of the territory to be included in the district.

(c) Set forth the methods by which the district will be financed.

(d) State the reasons for forming the district.

(e) Propose a name for the district.

(f) Designate not more than three persons as chief petitioners, setting forth their names and mailing addresses.

(g) State whether the formation is consistent with the sphere of influence of any affected city or affected district.

(h) Specify the number of members, whether five, seven, or nine, of the initial board of directors and the method of their selection, as provided by Article 4 (commencing with Section 9201).

9163. (a) Before circulating any petition, the chief petitioners shall publish a notice of intention which shall include a written statement not to exceed 500 words in length, setting forth the reasons for forming the district. The notice shall be published pursuant to Section 6061 of the Government Code in one or more newspapers of general circulation within the territory proposed to be included in the district. If the territory proposed to be included in the district is located in more than one county, publication of the notice shall be made in at least one newspaper of general circulation in each of the counties.

(b) The notice shall be signed by at least one, but not more than three, chief petitioners and shall be in substantially the following form:

"Notice of Intent to Circulate Petition

Notice is hereby given of the intention to circulate a petition proposing to form the _____ (name of the district). The reasons for the proposal are: _____."

(c) Within five days after the date of publication, the chief petitioners shall file with the executive officer of the local agency formation commission of the principal county a copy of the notice together with an affidavit made by a representative of the newspaper in which the notice was published certifying to the fact of publication.

(d) After the filing required pursuant to subdivision (c), the petition may be circulated for signatures.

9164. The petition shall be signed by not less than 10 percent of

the registered voters residing in the area to be included in the district, as determined by the local agency formation commission pursuant to subdivision (h) of Section 56375 of the Government Code. The provisions of Sections 41 and 44 of the Elections Code shall govern the signing of the petition and the format of the petition.

9165. A petition may consist of a single instrument or separate counterparts. The chief petitioner or petitioners shall file the petition, including all counterparts, with the executive officer of the local agency formation commission of the principal county within six months of the date on which the chief petitioner or petitioners filed the affidavit with the executive officer pursuant to subdivision (c) of Section 9163.

9166. (a) Within 30 days after the date of filing a petition, the executive officer of the local agency formation commission shall cause the petition to be examined and shall prepare a certificate of sufficiency indicating whether the petition is signed by the requisite number of signers.

(b) If the certificate of the executive officer shows the petition to be insufficient, the executive officer shall immediately give notice by certified mail of the insufficiency to the chief petitioners. That mailed notice shall state in what amount the petition is insufficient. Within 15 days after the date of the notice of insufficiency, the chief petitioners may file with the executive officer a supplemental petition bearing additional signatures.

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

(d) The executive officer shall sign and date a certificate of sufficiency. That certificate shall also state the minimum signature requirements for a sufficient petition and show the results of the executive officer's examination. The executive officer shall mail a copy of the certificate of sufficiency to the chief petitioners.

9167. (a) A proposal to form a new district may also be made by the adoption of a resolution of application by the legislative body of any county or city which contains territory proposed to be included in the district. Except for the provisions regarding signers and signatures, a resolution of application shall contain all of the matters specified for a petition in Section 9162. Before submitting a resolution of application, the legislative body shall conduct a public hearing on the resolution.

(b) Notice of the hearing shall be published pursuant to Section 6061 of the Government Code in one or more newspapers of general circulation within the county or city.

(c) At the hearing, the legislative body shall give any person an opportunity to present his or her views on the resolution.

(d) The clerk of the legislative body shall file a certified copy of the resolution of application with the executive officer of the local agency formation commission of the principal county.

9168. Once the chief petitioners have filed a sufficient petition or

a legislative body has filed a resolution of application, the local agency formation commission shall proceed pursuant to Chapter 5 (commencing with Section 56825) of Part 3 of Division 3 of Title 5 of the Government Code.

SEC. 4. Article 3 (commencing with Section 9181) of Chapter 3 of Division 9 of the Public Resources Code is repealed.

SEC. 5. Article 3 (commencing with Section 9181) is added to Chapter 3 of Division 9 of the Public Resources Code, to read:

Article 3. Election and Formation

9181. (a) If the local agency formation commission approves the formation of a district, with or without amendment, wholly, partially, or conditionally, the executive officer shall mail a copy of the resolution of the commission's determinations to the board of supervisors of each county within which territory of the proposed district lies. Within 35 days following the adoption of the commission's resolution, the board of supervisors shall call and give notice of the election to be held in the proposed district. If the proposed district lies in more than one county, the board of supervisors shall call and give notice of the election to be held in the territory of the proposed district which lies in that county.

(b) The election shall be held on the next regular or special election date not less than 113 nor more than 150 days after the date the board of supervisors calls and gives notice of the election.

(c) Notice of the election shall be published pursuant to Section 6061 of the Government Code in a newspaper of general circulation circulated within the territory of the proposed district which lies in the county.

9182. (a) Notwithstanding Section 9181, if the board of supervisors of the principal county finds that the petition filed with the executive officer of the local agency formation commission pursuant to Section 9165 has been signed by not less than 80 percent of the registered voters residing within the area to be included within the district, the board may dispense with an election, adopt the resolution required pursuant to Section 9188, and designate the members of the board of directors pursuant to Article 4 (commencing with Section 9201).

(b) Notwithstanding Section 9181, if the local agency formation commission approves a consolidation or reorganization pursuant to Section 56839 of the Government Code which results in the formation of a district without an election, the commission may designate the members of the board of directors from the membership of the board of directors of any of the consolidated or reorganized districts pursuant to subdivision (k) of Section 56844 of the Government Code. The terms of office of the directors shall be determined pursuant to Section 23506 of the Elections Code.

9183. (a) Within five days after the district formation election has been called, the board of supervisors of each county within which

territory of the proposed district lies shall transmit by registered mail a written notification of the election call to the executive officer of the local agency formation commission of the principal county. The written notice shall include the name and a description of the proposed district and may be in the form of a certified copy of the resolution adopted by the board of supervisors calling the district formation election.

(b) The executive officer of the local agency formation commission shall submit an impartial analysis of the proposed district formation to the officials in charge of conducting the district formation election, pursuant to Section 56859 of the Government Code.

9184. (a) (1) The chief petitioners, the agency filing the resolution, or any member or members of the board of supervisors authorized by the board, any individual voter or bona fide association of citizens entitled to vote on the district formation proposition, or any combination of these voters and associations of citizens, may file with the elections official of the principal county a written argument for or a written argument against the proposed district formation.

(2) Arguments shall not exceed 300 words in length. Based on the time reasonably necessary to prepare and print the text of the proposition, analysis, arguments, and sample ballots and to permit the 10-day public examination period as provided in Section 3795 of the Elections Code for the particular election, the elections official of the principal county shall fix and determine a reasonable date prior to the election after which no arguments for or against the measure may be submitted for printing and distribution to the voters pursuant to Section 9185. Notice of the date fixed shall be published by the elections official pursuant to Section 6061 of the Government Code. Arguments may be changed until and including the date fixed by the elections official.

(b) If more than one argument for or more than one argument against the proposed district formation is filed with the elections official within the time prescribed, the elections official shall select one of the arguments for printing and distribution to the voters.

In selecting the arguments, the elections official shall give preference and priority in the order named to the arguments of the following:

(1) Chief petitioners or the agency filing the resolution.

(2) The board of supervisors or any member or members of the board authorized by the board.

(3) Individual voters or bona fide associations of citizens or a combination of these voters and associations.

(c) When the elections official of the principal county has selected the arguments for and against the measure which will be printed and distributed to the voters, he or she shall send copies of the argument in favor of the measure to the authors of the argument against, and copies of the argument against to the authors of the argument in favor. The authors may prepare and submit rebuttal arguments not

exceeding 250 words. The rebuttal arguments shall be filed with the elections official of the principal county not more than 10 days after the final date for filing direct arguments. Rebuttal arguments shall be printed in the same manner as the direct arguments. Each rebuttal argument shall immediately follow the direct argument which it seeks to rebut and shall be titled "Rebuttal to Argument in Favor of Measure (or Proposition) _____" or "Rebuttal to Argument Against Measure (or Proposition) _____," the blank spaces being filled in only with the letter or number, if any, which designates the measure. Words used in the title shall not be counted when determining the length of any rebuttal argument.

9185. (a) The officials in charge of conducting the election shall cause a ballot pamphlet concerning the district formation proposition to be voted on to be printed and mailed to each voter entitled to vote on the district formation question at least 10 days prior to the date of the election. The ballot pamphlet is "official matter" within the meaning of Section 10010 of the Elections Code. Section 3795 of the Elections Code shall apply to the materials required to be contained in the ballot pamphlet.

(b) The ballot pamphlet shall contain the following in the order prescribed:

(1) The complete text of the proposition.

(2) The impartial analysis of the proposition submitted by the executive officer of the local agency formation commission.

(3) The argument for the proposed district formation.

(4) The rebuttal to the argument in favor of the proposed district formation.

(5) The argument against the proposed district formation.

(6) The rebuttal to the argument against the proposed district formation.

9186. The notice of the election published pursuant to subdivision (c) of Section 9181 shall contain all of the following:

(a) The date of the election.

(b) The name of the proposed district.

(c) The purposes for which the district is to be formed.

(d) A statement that the first directors will be elected at that election or will be appointed, as the case may be, if the district is formed.

(e) A description of the boundaries of the proposed district.

9187. (a) Except as otherwise provided in this division, the formation election and the election of members of the district board shall be held and conducted in accordance with the Uniform District Election Law (Part 3 (commencing with Section 23500) of Division 14 of the Elections Code).

(b) If less than a majority of the votes cast at the election is in favor of forming the district, the board of supervisors of the principal county shall declare the proceedings terminated.

9188. If the majority of the votes cast at the election is in favor of forming the district, the board or boards of supervisors shall by

resolution entered on its minutes declare the district duly organized under this division, giving the name of the district, and the purposes for which it is formed, and describing its boundaries. If the district lies in more than one county, the clerk of the board of supervisors of the principal county shall transmit a certified copy of the resolution to the clerk of the board of supervisors of each of the other counties in which the district lies.

9189. Immediately after adoption of a resolution pursuant to Section 9188, the clerk of the board of supervisors of the principal county shall transmit a certified copy of the resolution along with a remittance to cover the fees required by Section 54902.5 of the Government Code to the executive officer of the local agency formation commission. The executive officer shall complete the proceedings pursuant to Chapter 8 (commencing with Section 57200) of Part 4 of Division 3 of Title 5 of the Government Code.

9190. (a) No informality in any proceeding, including informality in the conduct of any election not substantially affecting adversely the legal rights of any person, shall invalidate the formation of any district.

(b) The validity of the formation and organization of a district shall not be contested in any proceeding commenced more than 60 days after the date that the formation of the district is complete.

SEC. 6. Article 4 (commencing with Section 9211) of Chapter 3 of Division 9 of the Public Resources Code is repealed.

SEC. 7. Article 4 (commencing with Section 9201) is added to Chapter 3 of Division 9 of the Public Resources Code, to read:

Article 4. Initial Board of Directors

9201. The initial board of directors of a district formed on or after January 1, 1992, shall be determined pursuant to this article.

9202. In the case of a district which contains only unincorporated territory in a single county, the district board may be elected or may be appointed by the county board of supervisors.

9203. In the case of a district which contains only unincorporated territory in more than one county, the district board may be elected or may be appointed by the boards of supervisors of the counties in which the district is located. If the district board is appointed by the boards of supervisors, they shall appoint directors according to the proportionate share of population of that portion of each county within the district, provided that each board of supervisors shall appoint at least one director.

9204. In the case of a district which contains unincorporated territory and the territory of one or more cities, the district board may be elected or appointed by the county board of supervisors and the city councils in which the district is located. If the district board is to be appointed, the board of supervisors and the city council or councils shall appoint directors according to the proportionate share of population of that portion of the county and each city within the

district, provided that the board of supervisors and each city council shall appoint at least one director.

9205. In the case of a district which includes only incorporated territory within a single city, the district board may be elected or appointed by the city council.

9206. In the case of a district which includes only incorporated territory in more than one city, the district board may be elected or appointed by the city councils in which the district is located. If the district board is appointed, the city councils shall appoint directors according to the proportionate share of population of that portion of each city within the district. However, each city council shall appoint at least one director.

SEC. 8. Article 5 (commencing with Section 9241) of Chapter 3 of Division 9 of the Public Resources Code is repealed.

SEC. 9. Article 6 (commencing with Section 9271) of Chapter 3 of Division 9 of the Public Resources Code is repealed.

SEC. 10. Section 9301 of the Public Resources Code is amended to read:

9301. (a) The board of directors shall consist of five, seven, or nine directors. The number of directors may be changed by resolution adopted by a majority of the members of the board of directors after publication of notice of the intended change at least once in a newspaper of general circulation published in each county in which the district is located.

(b) If the number of directors is increased, the new positions shall be treated as vacancies and shall be filled as provided in Section 9317, except that if the board of directors is appointed as provided in subdivision (b) of Section 9314, then the new positions shall be filled in the same manner pursuant to Section 9316. If the number of directors is decreased, the terms of the directors in office on the date of the resolution adopted pursuant to subdivision (a) shall not be reduced.

(c) The directors first elected shall take office immediately upon qualifying.

SEC. 11. Section 9314 of the Public Resources Code is amended to read:

9314. (a) The term of office of the directors, except those first elected, shall be four years. The expiration of the term of any director does not constitute a vacancy, and the director shall hold office until his or her successor has qualified.

(b) (1) As an alternative to the election of directors, the board of directors may, by a resolution presented to the board of supervisors of the principal county, request the board of supervisors to appoint directors, except those first elected. In any election year, the board of directors shall file its request with the board of supervisors no later than 125 days prior to the election. A copy of the resolution shall be furnished to the official responsible for conducting the election at the time it is presented to the board of supervisors of the principal county. The board of supervisors shall, by ordinance, appoint

directors, after consultation with the board of supervisors of any other county which contains any part of the district, from those candidates who have filed an application with the board of supervisors. Each application shall include the signatures of 10 qualified voters of the district, a statement that there shall be no election for that district, and any other information specified by the board of supervisors. If the directors are to be appointed, a notice of election shall not be published, but a notice of vacancy shall be posted pursuant to Section 54974 of the Government Code.

(2) Appointment of directors by the board of supervisors does not affect the status of a district as an independent special district.

(3) If the board of supervisors does not conduct interviews of potential candidates or make an appointment within 60 days after the expiration of the term, the board of directors may make the appointment.

(c) It is the intent of the Legislature to encourage districts to opt for selection of directors by election, but where directors are appointed pursuant to subdivision (b), it is the intent of the Legislature that the board of supervisors solicit recommendations from within the district, including public, private, and nonprofit entities, and appoint only applicants determined by the board of supervisors to have a demonstrated interest in soil and water conservation. In selecting directors pursuant to subdivision (b), the board of supervisors shall endeavor to achieve balanced representation on the board of directors of the district. In order to avoid undue financial burdens to districts and to thereby promote the objectives of this division, the Legislature hereby encourages counties to waive or minimize the charges for costs of elections conducted pursuant to this division.

SEC. 12. Section 9316 of the Public Resources Code is amended to read:

9316. In case of a vacancy in the office of director appointed pursuant to Section 9314, the vacancy shall be filled, as provided in Section 9314, by appointment for the unexpired term by the board of supervisors of the principal county.

SEC. 13. Section 9352 of the Public Resources Code is repealed.

SEC. 14. Section 9352 is added to the Public Resources Code, to read:

9352. (a) Directors shall be registered voters in the state.

(b) Except as provided in subdivision (d), directors shall (1) reside within the district and either own real property in the district or alternatively have served, pursuant to the district's rules, for two years or more as an associate director providing advisory or other assistance to the board of directors, or (2) be a designated agent of a resident landowner within the district.

(c) If the board of directors has provided for selection of directors by division, these residency requirements shall apply to the division the director represents, rather than to the district as a whole.

(d) The Legislature finds and declares that the primary function

of the Suisun Resource Conservation District and Grasslands Resource Conservation District in maintaining wildlife and wetland habitats will be impaired unless there is adequate opportunity for participation by landowners on the boards of directors of those districts. The Legislature further finds and declares that, because of the natural conditions prevailing in the territory of those districts, the majority of privately owned lands therein are owned by persons residing outside the districts. Therefore, owners of land within the Suisun Resource Conservation District and Grasslands Resource Conservation District, or their agents, may serve on the respective boards of directors thereof, regardless of whether they are residents of the district. For purposes of this subdivision, ownership of land shall be determined from the last equalized assessment roll of the county or counties within which the district is situated.

SEC. 15. Section 9356 is added to the Public Resources Code, to read:

9356. (a) Except as provided in subdivision (b), directors shall be elected at large.

(b) A district may, by ordinance, provide for election of directors by division. In order to reduce election costs, the divisions shall be established along the boundaries of existing voting precincts. Prior to adopting a resolution pursuant to this subdivision, the text of the proposed resolution, including proposed division boundaries, shall be published pursuant to Section 6066 of the Government Code, together with notice of the hearing at which the resolution will be considered. At the time stated in the notice for the hearing, the board of directors shall consider the proposal and shall hear any and all objections thereto. If, after the hearing, the board determines it to be in the best interests of the district, it shall adopt the resolution as proposed or as amended at the hearing. Directors in office at the time of adoption of the resolution shall remain in office until the next general district election, at which a director shall be elected to each division established by the resolution. The directors elected at that election shall meet and classify themselves by lot into two classes as nearly equal in number as possible. The term of office of those in the class having the least number shall expire on noon on the last Friday in November of the next even-numbered year after the year in which the meeting is held. The term of office of those in the other class shall expire at noon on the last Friday in November of the second even-numbered year after the year in which the meeting is held.

(c) If it is proposed to change the number of directors of a district divided into divisions, or if it is proposed to change the number of divisions in a district, that change shall be conditional upon adoption by the board of directors of a new or revised resolution under subdivision (b) and the provisions and procedures of subdivision (b) shall be applicable thereto.

(d) Notwithstanding subdivisions (b) and (c), in any district in which directors are appointed pursuant to Section 9314, the board of

supervisors of the principal county shall make the appointments by division, as called for in the resolution adopted pursuant to subdivision (b), in lieu of the election specified in subdivision (b), and those appointments shall become effective, and the terms of existing directors shall expire, on the same date as if the directors were elected.

SEC. 16. Section 9357 is added to the Public Resources Code, to read:

9357. Members of county boards of supervisors shall not be eligible to simultaneously hold office as a district director.

SEC. 17. Section 9358 is added to the Public Resources Code, to read:

9358. Nomination of candidates shall be in writing and signed by at least five landowners of the district. Nominations shall be filed with the clerk of the board of supervisors of the principal county.

SEC. 18. Section 9359 is added to the Public Resources Code, to read:

9359. Except as election of directors by division may be provided pursuant to Section 9356, all registered voters in a district shall be qualified electors and eligible to vote in district elections.

SEC. 19. Section 9403.5 is added to the Public Resources Code, to read:

9403.5. The directors may establish and charge fees for services provided by the district to, and upon the request of, persons or governmental entities. No fee shall exceed the cost reasonably borne by the district in providing the service.

SEC. 20. Section 9405 of the Public Resources Code is amended to read:

9405. The directors may acquire by purchase, lease, contract, or gift all lands and property necessary to carry out the plans and works of the district. The directors may acquire conservation easements as provided in Chapter 4 (commencing with Section 815) of Title 2 of Part 2 of Division 2 of the Civil Code on lands within the district. A district acquiring a conservation easement shall prepare a management plan for the easement which fully describes the intent and legal obligations respecting the easement and which shall be consistent with the goals of the State Soil Conservation Plan and other policies adopted pursuant to Section 9108.

SEC. 21. Section 9408 of the Public Resources Code is amended to read:

9408. (a) The directors may cooperate and enter into contracts or agreements with the state, the United States, any county, any city, any other resource conservation or other public district in this state, any person, or the commission, in furtherance of the provisions of this division, and to that end may use any funds available to the district as provided in this chapter, and may accept and use contributions of labor, money, supplies, materials, or equipment useful for accomplishing the purposes of the district.

(b) Districts may cooperate with counties and cities on resource

issues of local concern. It is the intent of the Legislature to encourage districts to facilitate cooperation among agencies of government to address resource issues of local concern.

(c) Districts may cooperate with federal, state, and local agencies and owners of private lands under the agreement between the California Association of Resource Conservation Districts and various public and private entities known as the coordinated resource management and planning memorandum of understanding.

SEC. 22. Section 9412 of the Public Resources Code is amended to read:

9412. Each district may provide technical assistance to private landowners or land occupants within the district to support practices that minimize soil and related resource degradation. When in the judgment of the directors it is for the benefit of the district so to do, they may give assistance to private landowners or land occupants within the district in seeds, plants, materials and labor, and may loan or rent to any such private landowner or land occupant agricultural machinery or other equipment. No such assistance shall be given or any such loans made unless the landowner or land occupant receiving the aid or assistance agrees to devote and use the aid or assistance on his or her lands within the district in furtherance of objectives of the district and in accordance with district plans or regulations. Notwithstanding the fact that the landowner or land occupant is also a director, any landowner is qualified to and may receive assistance or loans under this section.

SEC. 23. Section 9413 of the Public Resources Code is repealed.

SEC. 24. Section 9413 is added to the Public Resources Code, to read:

9413. (a) Each district may develop districtwide comprehensive annual and long-range work plans as provided in this section. These plans shall address the full range of soil and related resource problems that are found to occur in the district.

(b) The long-range work plans may be adopted and updated every five years, in accordance with a standard statewide format which shall be established by the commission. Districts may amend the long-range plan prior to the five-year update in order to address substantive changes occurring since the adoption of the most recent long-range work plan. The long-range plans shall serve the following functions:

(1) Identification of resource issues within the district for purposes of local, state, and federal resource conservation planning.

(2) Establishment of long-range district goals.

(3) Provision of a framework for directors to identify priorities for annual district activities.

(4) Provision of information to federal, state, and local governments and the public concerning district programs and goals.

(5) Setting forth a basis for evaluating annual work plan achievements and allocating available state funding to the district.

(6) Involvement of other agencies and organizations in the

district planning process in order to help ensure support in implementing district plans.

(c) The annual work plans may be adopted on or before March 1 of each year in a format which shall be consistent with the district's long-range work plan. The annual work plans shall serve the following functions:

(1) Identification of high priority actions to be undertaken by the district during the year covered by the plan.

(2) Identification of the person or persons responsible for undertaking each planned task, how it will be performed, when it will be completed, what constitutes completion, and the cost.

(3) Demonstration of the relationship of annual tasks to the long-range district goals identified in the long-range work plan.

(4) Provision of assistance to the local field office of the Soil Conservation Service of the United States Department of Agriculture in adjusting staff and program priorities to match district goals.

(5) Informing the public of the district's goals for the year.

(6) Involvement of other agencies and organizations in the district planning process in order to help ensure support in implementing district plans.

(7) Provision of a basis for assisting the commission in determining district eligibility for state funding under this division.

(d) A district may prepare an annual district report. The annual district report shall be completed on or before September 1 of each year in a format consistent with the long-range and annual plans, so that progress made during the reporting period towards district goals can be readily determined. The annual report shall serve the following functions:

(1) To report on the district's achievements during the reporting period to the commission, the department, the board of supervisors of any county in which the district is located, and any agency that reviews district requests for funding assistance.

(2) To increase public awareness of district activities.

(3) To compare district accomplishments during the reporting period with annual work plan objectives for that period and to identify potential objectives for the next annual work plan.

SEC. 25. Section 9417 of the Public Resources Code is amended to read:

9417. (a) The directors of any district may cooperate with the directors of any other district in respect to matters of common interest or benefit to the districts. An association of resource conservation districts may be organized to facilitate that cooperation, to provide for the loan of equipment and tools by one district to another, and for the making of investigations and studies and the carrying out of projects of joint interest to the districts participating therein.

(b) It is the intent of the Legislature to encourage districts to organize in countywide or regional associations for the purposes of

(1) providing coordinated representation of districts before federal, state, and local governmental agencies and (2) coordinating program planning, funding, and delivery of services.

SEC. 26. Section 9419 of the Public Resources Code is amended to read:

9419. (a) The directors may engage in activities designed to promote a knowledge of the principles of resource conservation throughout the district and for that purpose may develop educational programs both for children and for adults. In the development of those programs, the directors may authorize the giving of awards and prizes for outstanding achievement.

(b) Each district may develop and disseminate or utilize conservation education programs for use in kindergarten through grade 12. As an option to developing these programs independently, it is the intent of the Legislature to encourage both collaboration with other organizations and incorporation of elements of existing programs.

(c) A district may conduct workshops on the relationships between soil and related resource problems and their effects on other resources, such as wildlife and water quality.

(d) A district may sponsor programs that address land use practices which reduce water and wind erosion, soil contamination, soil salinity, agricultural land conversion, loss of soil organic matter, soil subsidence, and soil compaction and associated poor water infiltration.

SEC. 27. Section 9420 of the Public Resources Code is repealed.

SEC. 28. Section 9420 is added to the Public Resources Code, to read:

9420. The board of directors of a district may appoint advisory committees to provide technical assistance in addressing soil and related resource problems, to assist in coordinating conservation programs and activities, and to share information relating to the functions or purposes of the district. Representatives of state, federal, and local governmental agencies, including school districts, as well as private organizations, may serve on these advisory committees.

SEC. 29. Section 9521 of the Public Resources Code is amended to read:

9521. (a) Except as provided in subdivision (b), the treasury of the principal county is the depository of all of the funds of the district.

(b) As an alternative to using the county treasury as depository, a district may adopt a resolution transferring responsibility for the district treasury to the board of directors of the district, which shall deposit district funds as provided in Article 2 (commencing with Section 53630) of Chapter 4 of Part 1 of Division 2 of Title 5 of the Government Code. Following adoption of the resolution, the provisions of this article relating to the county treasurer and county treasury shall not apply to the district.

CHAPTER 832

An act to amend Sections 1568.01, 1568.021, 1568.03, 1568.04, 1568.06, 1568.063, 1568.07, 1568.072, 1568.082, and 1568.0831 of, and to add Sections 199.716, 1568.065, 1568.066, 1568.067, and 1568.0823 to, the Health and Safety Code, relating to residential care facilities for persons with chronic life-threatening illness.

[Approved by Governor October 11, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 199.716 is added to the Health and Safety Code, to read:

199.716. (a) The state department may provide supplemental funding to residential AIDS shelters in accordance with Section 199.715, as long as that section is operative, and to residential care facilities for persons with a chronic, life-threatening illness, which are licensed in accordance with Chapter 3.01 (commencing with Section 1568.01) of Division 2.

(b) A residential AIDS shelter which receives a supplemental grant and subsequently is licensed as a residential care facility for persons with a chronic, life-threatening illness prior to the end of the grant period shall be entitled to the full amount of the supplemental grant.

SEC. 2. Section 1568.01 of the Health and Safety Code is amended to read:

1568.01. For purposes of this chapter, the following definitions shall apply:

(a) "Activities of daily living" means housework, meals, laundry, taking medication, money management, appropriate transportation, correspondence, telephoning, dressing, feeding, toileting, bathing, grooming, mobility, and related tasks.

(b) "Care and supervision" means the facility assumes responsibility for, or provides or promises to provide in the future, ongoing assistance with activities of daily living without which a resident's physical health, mental health, safety, or welfare would be endangered.

(c) "Chronic, life-threatening illness" means HIV disease or AIDS.

(d) "Department" means the State Department of Social Services.

(e) "Director" means the Director of Social Services.

(f) "Family dwelling" includes, but is not limited to, single-family dwellings, units in multifamily dwellings, including units in duplexes and units in apartment dwellings, mobilehomes, including mobilehomes located in mobilehome parks, units in cooperatives, units in condominiums, units in townhouses, and units in planned

unit developments.

(g) "Fund" means the Residential Care Facilities for Persons with Chronic Life-Threatening Illness Fund created by subdivision (c) of Section 1568.05.

(h) "Placement agency" means any state agency, county agency, or private agency which receives public funds, in part, to identify housing options for persons with chronic, life-threatening illness and refers these persons to housing.

(i) "Residential care facility" means a residential care facility for persons with chronic, life-threatening illness who are 18 years of age or older.

(j) "Six or fewer persons" does not include the licensee or members of the licensee's family or persons employed as facility staff.

SEC. 3. Section 1568.021 of the Health and Safety Code is amended to read:

1568.021. (a) If the applicant for a license or renewal of a license for a residential care facility handles or will handle any money of a resident of the facility, the applicant or licensee shall file or have on file with the department a bond issued by a surety company admitted to do business in this state in a sum to be fixed by the department based upon the magnitude of the operations of the applicant or licensee, but which sum shall not be less than one thousand dollars ($1,000), running to the State of California and conditioned upon his or her faithful and honest handling of the money of residents of the facility.

(b) The failure of any licensee under this chapter to maintain on file with the department a bond in the amount prescribed by the department or the embezzlement by a licensee of trust funds of a resident of the facility shall constitute cause for the revocation of the license.

(c) This section shall not apply if the licensee handles moneys of residents of the facility in amounts less than fifty dollars ($50) per person and less than five hundred dollars ($500) for all persons in any month.

(d) The director may grant a partial or total variance from the requirements of this section if the director finds that compliance with them is so onerous that a residential care facility will cease to operate, and if the director also finds that money of the residents received or cared for in the facility has been, or will be, deposited in a bank in this state, in a trust company authorized to transact a trust business in this state, or in a savings and loan association in this state, upon condition that the money may not be withdrawn except on authorization of the person or a representative who is legally authorized to make financial decisions on behalf of the person.

SEC. 4. Section 1568.03 of the Health and Safety Code is amended to read:

1568.03. (a) No person, firm, partnership, association, or corporation within the state and no state or local public agency shall operate, establish, manage, conduct, or maintain a residential care

facility in this state without first obtaining and maintaining a valid license therefor, as provided in this chapter.

(b) A facility may accept or retain residents requiring varying levels of care. However, a facility shall not accept or retain residents who require a higher level of care than the facility is authorized to provide. Persons who require 24-hour skilled nursing intervention shall not be appropriate for a residential care facility.

(c) This chapter shall not apply to the following:

(1) Any health facility, as defined in Section 1250.

(2) Any clinic, as defined in Section 1200.

(3) Any arrangement for the receiving and care of persons with chronic, life-threatening illness by a relative, guardian or conservator, significant other, or close friend; or any arrangement for the receiving and care of persons with chronic, life-threatening illness from only one family as respite for the relative, guardian or conservator, significant other, or close friend, if the arrangement is not for financial profit and occurs only occasionally and irregularly, as defined by regulations of the department.

(d) The director may waive the requirement for licensure under this chapter for any house, institution, hotel, foster home, shared housing project, or other similar facility that is limited to providing housing, meals, transportation, housekeeping, or recreational and social activities, or that has residents independently accessing supportive services as long as no resident thereof requires any element of care and supervision or protective supervision.

(e) The director may bring an action to enjoin the violation or threatened violation of this section in the superior court in and for the county in which the violation occurred or is about to occur. Any proceeding under this section shall conform to the requirements of Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure, except that the director shall not be required to allege facts necessary to show or tending to show lack of adequate remedy at law or irreparable damage or loss. The court shall, if it finds the allegations to be true, issue its order enjoining continuance of the violation.

SEC. 5. Section 1568.04 of the Health and Safety Code is amended to read:

1568.04. Any person desiring issuance or renewal of a license for a residential care facility under this chapter shall file with the department, pursuant to regulations adopted by the department, an application. The application shall be made on a form furnished by the department and shall include, but not be limited to, all of the following:

(a) Evidence satisfactory to the department of all of the following:

(1) The ability of the applicant to comply with this chapter and of rules and regulations adopted pursuant to this chapter by the department. Where there is an application for renewal of a license, evidence satisfactory to the department that the licensee has substantially complied, during the term of the previous license, with

this chapter and with the rules and regulations adopted pursuant to this chapter.

(2) The applicant has sufficient financial resources to maintain the standards of service required by regulations adopted pursuant to this chapter.

(3) Following the department's adoption of regulations specifying the levels of care to be provided under this chapter, the applicant's ability to meet regulatory requirements for the level of care the facility intends to provide.

(4) Compliance or ability to comply with Section 1568.02.

(b) Disclosure of the applicant's prior or present service as an administrator, general partner, corporate officer or director of, or as a person who has held or holds a beneficial ownership of 10 percent or more in, any residential care facility or in any clinic or facility licensed pursuant to Chapter 1 (commencing with Section 1200), Chapter 2 (commencing with Section 1250), or Chapter 3 (commencing with Section 1500).

(c) Disclosure of any revocation or other disciplinary action taken, or in the process of being taken, against a license held or previously held by the entities specified in subdivision (b).

(d) Any other information as may be required by the department for the proper administration and enforcement of this chapter.

(e) A signed statement that the person desiring issuance or renewal of a license has read this chapter and the regulations adopted pursuant to this chapter and understands the statute and regulations applicable to a residential care facility.

SEC. 6. Section 1568.06 of the Health and Safety Code is amended to read:

1568.06. (a) Upon initial application for licensure, residential care facilities shall be provided a printed copy of all applicable regulations for the operation of these facilities by the department, without charge. The department shall provide all licensees with copies of proposed changes in regulations applicable to residential care facilities prior to public hearings on those proposed changes, and copies of all adopted changes in regulations applicable to residential care facilities immediately upon their adoption.

(b) As a requirement for licensure, an applicant shall attend a two-day orientation given by the department which outlines the applicable rules and regulations and the scope and responsibility for operation of a residential care facility. The orientation shall include information on relevant community services.

SEC. 7. Section 1568.063 of the Health and Safety Code is amended to read:

1568.063. Immediately upon the denial of any application for a license, the department shall notify the applicant in writing. Within 15 days after the department mails the notice of denial, the applicant may present his or her written petition for a hearing to the department. Upon receipt by the department of the petition in proper form, the petition shall be set for hearing.

SEC. 8. Section 1568.065 is added to the Health and Safety Code, to read:

1568.065. (a) Proceedings for the suspension, revocation, or denial of a license under this chapter shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the department shall have all those powers granted by the provisions. In the event of conflict between this chapter and those provisions of the Government Code, this chapter shall prevail.

(b) In all proceedings conducted in accordance with this section, the standard of proof to be applied shall be by the preponderance of the evidence.

(c) The department shall commence and process licensure revocations under this chapter in a timely and expeditious manner. Notwithstanding a contrary provision in Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, the Office of Administrative Hearings shall give priority calendar preference to licensure revocation hearings pursuant to this chapter, particularly where the health and safety of the clients are in question.

(d) Notwithstanding Section 11510 of the Government Code, witnesses subpoenaed at the request of the department for a hearing conducted pursuant to this article who attend a hearing may be paid by the department witness fees and mileage as provided by Section 68093 of the Government Code. In addition, the department may pay actual, necessary, and reasonable expenses in an amount not to exceed the per diem allowance payable to a nonrepresented state employee on travel status. The department may pay witness expenses pursuant to this section in advance of the hearing.

(e) (1) The withdrawal of an application for a license or a special permit after it has been filed with the department shall not deprive the department of its authority to institute or continue a proceeding against the applicant for the denial of the license or a special permit upon any ground provided by law or to enter an order denying the license or special permit upon any such ground.

(2) The suspension, expiration, or forfeiture by operation of law of a license issued by the department, or its suspension, forfeiture, or cancellation by order of the department or by order of a court of law, or its surrender, shall not deprive the department of its authority to institute or continue a disciplinary proceeding against the licensee upon any ground provided by law or to enter an order suspending or revoking the license or otherwise taking disciplinary action against the licensee on any such ground.

(f) (1) If an application for a license indicates, or the department determines during the application review process, that the applicant previously was issued a license under this chapter or under Chapter 1 (commencing with Section 1200), Chapter 2 (commencing with Section 1250), Chapter 3 (commencing with Section 1500), Chapter 3.3 (commencing with Section 1569), Chapter 3.4 (commencing with

Section 1596.70), Chapter 3.5 (commencing with Section 1596.90), or Chapter 3.6 (commencing with Section 1597.30) and the prior license was revoked within the preceding two years, the department shall cease any further review of the application until two years shall have elapsed from the date of the revocation. The cessation of review shall not constitute a denial of the application for purposes of Section 1568.062, this section, or any other provision of law.

(2) If an application for a license indicates, or the department determines during the application review process, that the applicant had previously applied for a license under any of the chapters listed in paragraph (1) and the application was denied within the last year, the department shall cease further review of the application under either of the following circumstances:

(A) In cases where the applicant petitioned for a hearing, the department shall cease further review of the application until one year has elapsed from the effective date of the decision and order of the department upholding a denial.

(B) In cases where the department informed the applicant of his or her right to petition for a hearing as specified in Section 1568.063 and the applicant did not petition for a hearing, the department shall cease further review of the application until one year has elapsed from the date of the notification of the denial and the right to petition for a hearing.

(3) The department may continue to review the application if it has determined that the reasons for the denial of the application were due to circumstances and conditions which either have been corrected or are no longer in existence.

SEC. 9. Section 1568.066 is added to the Health and Safety Code, to read:

1568.066. (a) The department may prohibit a licensee from employing, or continuing the employment of, or allowing in a licensed facility, or allowing contact with clients of a licensed facility by, any employee or prospective employee who has:

(1) Violated, aided, or permitted the violation by any other person of this chapter or of any rules or regulations adopted under this chapter.

(2) Engaged in conduct which is inimical to the health, welfare, or safety of either an individual, in or receiving services from the facility, or the people of the State of California.

(3) Been denied an exemption to work or to be present in a facility, when that person has been convicted of a crime as defined in Section 1568.09.

(4) Engaged in any other conduct which would constitute a basis for disciplining a licensee.

(b) The employee or prospective employee, the facility, and the licensee shall be given written notice of the basis of the action of the department and of the right to a hearing of the employee, or prospective employee. The notice shall be served either by personal service or by registered mail. Within 15 days after the department

serves the notice, the employee or prospective employee may file with the department a written request for a hearing. If the employee or prospective employee fails to file a written request for a hearing within the prescribed time, the action of the department shall be final.

(c) The department may require that an employee or prospective employee not work or be present in a facility pending a final decision of the matter when, in the opinion of the director, the action is necessary to protect residents or clients from physical or mental abuse, abandonment, or any other substantial threat to their health or safety.

(d) Upon receipt by the department of a written request for a hearing, a hearing shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Division 3 of Title 2 of the Government Code. The standard of proof shall be the preponderance of the evidence and the burden of proof shall be on the department.

(e) A licensee's failure to comply with the department's prohibition of employment or presence in the facility shall be grounds for disciplining the licensee pursuant to Section 1568.082.

SEC. 10. Section 1568.067 is added to the Health and Safety Code, to read:

1568.067. (a) No license issued pursuant to this chapter shall have any property value for sale or exchange purposes and no person, including any owner, agent, or broker, shall sell or exchange any license for any commercial purpose.

(b) (1) Each residential care facility licensed under this chapter shall reveal its license number in all advertisements, publications, or announcements made with the intent to attract clients or residents.

(2) Advertisements, publications, or announcements subject to the requirements of paragraph (1) shall include, but not be limited to, those contained in a newspaper or magazine, consumer report, announcement of intent to commence business, telephone directory yellow pages, professional or service directory, or radio or television commercial.

SEC. 11. Section 1568.07 of the Health and Safety Code is amended to read:

1568.07. (a) (1) Within 90 days of initial licensure, the department shall inspect the facility to evaluate compliance with rules and regulations and to assess the facility's continuing ability to meet regulatory requirements.

(2) The department may take appropriate remedial action as provided for in this chapter.

(b) (1) Every licensed residential care facility shall be periodically inspected and evaluated for quality of care by a representative or representatives designated by the director. Evaluations shall be conducted at least annually and as often as necessary to ensure the quality of care being provided.

(2) During each licensing inspection the department shall

determine if the facility meets regulatory standards, including, but not limited to, providing residents with the appropriate level of care based on the facility's license, providing adequate staffing and services, updated resident records and assessments, and compliance with basic health and safety standards.

(3) If the department determines that a resident requires a higher level of care than the facility is authorized to provide, the department may initiate a professional level of care assessment by an assessor approved by the department. An assessment shall be conducted in consultation with the resident, the resident's physician and surgeon, and the resident's case manager, and shall reflect the desires of the resident, the resident's physician and surgeon, and the resident's case manager. The assessment also shall recognize that certain illnesses are episodic in nature and that the resident's need for a higher level of care may be temporary.

(4) The department shall notify the residential care facility in writing of all deficiencies in its compliance with this chapter and the rules and regulations adopted pursuant to this chapter, and shall set a reasonable length of time for compliance by the facility.

(5) Reports on the results of each inspection, evaluation, or consultation shall be kept on file in the department, and all inspection reports, consultation reports, lists of deficiencies, and plans of correction shall be open to public inspection in the county in which the facility is located.

(c) Any duly authorized officer, employee, or agent of the department may, upon presentation of proper identification, enter and inspect a licensed residential care facility or a residential care facility which has applied to be licensed, at any time, with or without advance notice, to secure compliance with, or to prevent a violation of, this chapter.

(d) No licensee shall discriminate or retaliate in any manner against any person receiving the services of the facility of the licensee, or against any employee of the facility, on the basis, or for the reason, that a person or employee or any other person has initiated or participated in an inspection pursuant to Section 1568.071.

(e) Any person who, without lawful authorization from a duly authorized officer, employee, or agent of the department, informs an owner, operator, employee, agent, or resident of a residential care facility, of an impending or proposed inspection or evaluation of that facility by personnel of the department, is guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not to exceed one thousand dollars ($1,000), by imprisonment in the county jail for a period not to exceed 180 days, or by both a fine and imprisonment.

SEC. 12. Section 1568.072 of the Health and Safety Code is amended to read:

1568.072. (a) The department shall adopt, amend, and repeal, in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, any

reasonable rules, regulations, and standards as may be necessary or proper to carry out the purposes and intent of this chapter and to enable the department to exercise the powers and perform the duties conferred upon it by this chapter, not inconsistent with state law.

(b) Regulations for a license shall prescribe standards of safety and sanitation, for the physical plant, as well as for the basic care and supervision, personal care, and services to be provided by a facility.

(c) Regulations shall specify the application and licensing process, the range of services, alternative methods for providing those services, the appraisal and assessment process, and facility staffing and training requirements.

(d) Regulations shall allow for the development of new and innovative community programs.

SEC. 13. Section 1568.082 of the Health and Safety Code is amended to read:

1568.082. (a) The department may suspend or revoke any license issued under this chapter upon any of the following grounds and in the manner provided in this chapter:

(1) Violation by the licensee of this chapter or of the rules and regulations adopted pursuant to this chapter.

(2) Aiding, abetting, or permitting the violation of this chapter or of the rules and regulations adopted pursuant to this chapter.

(3) Conduct which is inimical to the health, welfare, or safety of either an individual in or receiving services from the facility or the people of the State of California.

(4) The provision of services beyond the level the facility is authorized to provide, or accepting or retaining residents who require services of a higher level than the facility is authorized to provide.

(b) The director may temporarily suspend any license, prior to any hearing when, in the opinion of the director, the action is necessary to protect residents of the facility from physical or mental abuse, abandonment, or any other substantial threat to health or safety. The director shall notify the licensee of the temporary suspension and the effective date of the temporary suspension, and at the same time shall serve the provider with an accusation. Upon receipt of a notice of defense to the accusation by the licensee, the director shall, within 15 days, set the matter for hearing, and the hearing shall be held as soon as possible, but not later than 30 days after receipt of the notice. The temporary suspension shall remain in effect until the time the hearing is completed and the director has made a final determination on the merits. However, the temporary suspension shall be deemed vacated if the director fails to make a final determination on the merits within 30 days after the original hearing has been completed.

(c) In any case where the department orders the licensee to remove a resident who has a health condition or health conditions which cannot be cared for within the limits of the license or special

permit or requires inpatient care in a health facility licensed pursuant to Chapter 2 (commencing with Section 1250), the licensee shall do all of the following:

(1) Prepare and submit to the department a written plan for relocation of the client or resident, in a form acceptable to the department.

(2) Comply with all terms and conditions of the approved relocation plan.

(3) Provide any other information as may be required by the department for the proper administration and enforcement of this section.

SEC. 14. Section 1568.0823 is added to the Health and Safety Code, to read:

1568.0823. (a) Any person who violates this chapter, or who willfully or repeatedly violates any rule or regulation adopted under this chapter, is guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not to exceed one thousand dollars ($1,000), or by imprisonment in the county jail for a period not to exceed 180 days, or by both fine and imprisonment.

(b) Operation of a residential care facility without a license shall be subject to a summons to appear in court.

(c) Notwithstanding any other provision of this chapter, the district attorney of every county, and the city attorneys in those cities which have city attorneys who have jurisdiction to prosecute misdemeanors pursuant to Sections 71099 and 72193 of the Government Code, shall, upon their own initiative or upon application by the department or its authorized representative, institute and conduct the prosecution of any action for violation within his or her county of this chapter.

SEC. 15. Section 1568.0831 of the Health and Safety Code is amended to read:

1568.0831. (a) (1) Whether or not unrelated persons are living together, a residential care facility which serves six or fewer persons shall be considered a residential use of property for the purposes of this chapter. In addition, the residents and operators of the facility shall be considered a family for the purposes of any law or zoning ordinance which relates to the residential use of property pursuant to this chapter.

(2) For the purpose of all local ordinances, a residential care facility which serves six or fewer persons shall not be included within the definition of a boarding house, rooming house, institution, guest home, rest home, sanitarium, mental hygiene home, or other similar term which implies that the residential care facility is a business run for profit or differs in any other way from a family dwelling.

(3) This section shall not be construed to prohibit any city, county, or other local public entity from placing restrictions on building heights, setback, lot dimensions, or placement of signs of a residential care facility which serves six or fewer persons as long as the restrictions are identical to those applied to other family dwellings

of the same type in the same zone.

(4) This section shall not be construed to prohibit the application to a residential care facility of any local ordinance which deals with health and safety, building standards, environmental impact standards, or any other matter within the jurisdiction of a local public entity if the ordinance does not distinguish residential care facilities which serve six or fewer persons from other family dwellings of the same type in the same zone and if the ordinance does not distinguish residents of residential care facilities from persons who reside in other family dwellings of the same type in the same zone.

(5) No conditional use permit, zoning variance, or other zoning clearance shall be required of a residential care facility which serves six or fewer persons which is not required of a family dwelling of the same type in the same zone.

(6) Use of a family dwelling for purposes of a residential care facility serving six or fewer persons shall not constitute a change of occupancy for purposes of Part 1.5 (commencing with Section 17910) of Division 13 or local building codes. However, nothing in this section is intended to supersede Section 13143 or 13143.6, to the extent these sections are applicable to residential care facilities serving six or fewer persons.

(b) No fire inspection clearance or other permit, license, clearance, or similar authorization shall be denied to a residential care facility because of a failure to comply with local ordinances from which the facilities are exempt under subdivision (a), provided that the applicant otherwise qualifies for the fire clearance, license, permit, or similar authorization.

(c) For the purposes of any contract, deed, or covenant for the transfer of real property executed on or after January 1, 1979, a residential care facility which serves six or fewer persons shall be considered a residential use of property and a use of property by a single family, notwithstanding any disclaimers to the contrary.

(d) Nothing in this chapter shall authorize the imposition of rent regulations or controls for licensed residential care facilities.

(e) Licensed residential care facilities shall not be subject to controls on rent imposed by any state or local agency or other local government or entity.

SEC. 16. (a) The State Department of Social Services shall adopt any regulations required pursuant to this act as emergency regulations on or before March 31, 1992, in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(b) Any regulations adopted pursuant to this act deemed to be necessary for the immediate preservation of the public peace, health, and safety or general welfare, and no additional finding to that effect shall be required.

SEC. 17. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for those costs which may be incurred by a local agency or school district

because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

However, notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains other costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 833

An act to amend Sections 8903 and 19842 of the Government Code, relating to state employment.

[Approved by Governor October 11, 1991. Filed with Secretary of State October 14, 1991]

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

SECTION 1. Section 8903 of the Government Code is amended to read:

8903. When traveling to and from a session of the Legislature, or when traveling to and from a meeting of a committee of which he or she is a member, or when traveling pursuant to any other legislative function or responsibility as authorized or directed by the rules of the house of which he or she is a member or by the joint rules, when that travel is by a common carrier of passengers, a Member of the Legislature shall be entitled to reimbursement for the actual costs of travel by the common carrier. If the member travels by other means and common carrier service is available and feasible he or she shall be reimbursed in the amount of the fare of available common carrier service. If common carrier service is unavailable or not feasible, a member shall be reimbursed at a rate not to exceed the rate established by the Department of Personnel Administration for the reimbursement of officers and employees of the state pursuant to Section 19820. No mileage shall be allowed or paid for travel in a conveyance owned or provided by and at the expense of a public agency. As used in this section, "common carrier" means carrier by aircraft, railroad, bus, or vessel.

SEC. 2. Section 19842 of the Government Code is amended to read:

19842. (a) For the purpose of facilitating either the recruitment of professional and technically trained persons to fill positions for which there is a shortage of qualified applicants or hiring to achieve goals developed pursuant to Section 19790, the department may authorize payment of all or a part of the travel expense of applicants who are called for interview and all or a part of the travel and moving expense of persons who change their place of residence to accept employment with the state. These payments shall be authorized only upon the certification of the appointing power and the department that the expenditure is necessary in order to recruit qualified persons needed by the state.

If, for reasons that do not meet the approval of the state department concerned, the employee or applicant for employment does not accept or continue the employment for a period of two years, he or she shall reimburse the state department for the moving and travel expenses for the full or proportionate amount.

For the purposes of this section, satisfactory reasons for not completing two years of employment shall be death, prolonged illness, disability, unacceptability of the applicant or employee to the state department, and similar eventualities beyond the control of the applicant or employee.

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if the provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

CHAPTER 834

An act to amend Section 6 of the San Bernardino County Flood Control Act (Chapter 73 of the Statutes of 1939), relating to the San Bernardino County Flood Control District.

[Approved by Governor October 11, 1991 Filed with Secretary of State October 14, 1991]

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

SECTION 1. Section 6 of the San Bernardino County Flood Control Act (Chapter 73 of the Statutes of 1939) is amended to read:

Sec. 6. (a) (1) The legal title to all property acquired under this act shall immediately and by operation of law vest in the district, and shall be held by the district, in trust for, and is hereby dedicated and set apart to, the uses and purposes set forth in this act.

(2) The board of supervisors may hold, use, acquire, manage, occupy and possess the property, as provided by this act.

(3) The board of supervisors may determine, by resolution duly entered in its minutes, that any real or personal property held by the district is no longer necessary to be retained for the uses and purposes of the district, and may thereafter sell or otherwise dispose of the property, or lease the property.

(b) Notwithstanding subdivision (a), the board of supervisors may manage the property in accordance with Article 7.5 (commencing with Section 25515) of Chapter 5 of Part 2 of Division 2 of Title 3 of the Government Code, if all of the following conditions are met:

(1) The property was not acquired through eminent domain.

(2) The board, prior to offering the property for development by a joint venture, transmits a written offer to sell or lease the property pursuant to Section 54222 of the Government Code.

(3) The board finds, based on substantial evidence in the record, both of the following:

(A) The property was not acquired for purposes of development or management pursuant to Article 7.5 (commencing with Section 25515) of Chapter 5 of Part 2 of Division 2 of Title 3 of the Government Code.

(B) The property is no longer needed for district purposes, including flood protection or water conservation.

(4) The board submits the management plan for the property to the planning agency having jurisdiction to determine whether it is consistent with all of the following:

(A) The city or county general plan, specific plan, and other plans or policies adopted for the area within which the property is located, including any plans and regulations adopted pursuant to Chapter 4 (commencing with Section 8400) of Part 2 of Division 5 of the Water Code.

(B) The city or county zoning ordinances, regulations, and policies adopted for the area within which the property is located.

(C) The city or county building regulations and policies adopted for the area within which the property is located.

(c) Notwithstanding subdivisions (a) and (b), no property shall be acquired by the district for purposes of development or management pursuant to Article 7.5 (commencing with Section 25515) of Chapter 5 of Part 2 of Division 2 of Title 3 of the Government Code.

CHAPTER 835

An act to amend, repeal, and add Section 6871.2 of, and to add Section 6872.5 to, the Public Resources Code, relating to state lands.

[Approved by Governor October 11, 1991 Filed with Secretary of State October 14, 1991]

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

SECTION 1. Section 6871.2 of the Public Resources Code is amended to read:

6871.2. Except as provided in Sections 6872 and 6872.1, the commission shall not enter into any lease for the extraction of oil and gas from state-owned tide and submerged lands within the areas to which this section is applicable.

This section is applicable only to the lands within the following described areas, but does not prohibit operations or activities under any state oil and gas leases of any portion or portions of the tide and submerged lands to which this section is applicable and which leases are in effect on January 1, 1955, nor does it prohibit renewals or extensions of any such leases in accordance with the provisions thereof.

(a) All those tide or submerged lands situated in the areas of the County of Los Angeles described as follows:

Area No. 1: Beginning at the point of intersection of the ordinary high water mark of the Pacific Ocean with the southerly point of Point Fermin; thence in a generally northerly and westerly direction along the ordinary high water mark to the Ventura County line; thence due south three nautical miles to a point in the Pacific Ocean; thence in a generally easterly and southerly direction parallel to the ordinary high water mark to a point in the Pacific Ocean three nautical miles due south from the point of beginning; thence due north to the point of beginning.

Area No. 2: The tide and submerged lands surrounding the Islands of San Clemente and Santa Catalina waterward of the ordinary high water mark of the Pacific Ocean on these islands to a distance three nautical miles therefrom.

(b) All those tide and submerged lands being in the County of Santa Barbara and lying within an area beginning at the point of intersection of the ordinary high water mark of the Pacific Ocean with the westerly line of that certain 408.60 acres, more or less, tract of land shown as belonging to the University of California, Santa Barbara College, upon that certain map thereof, recorded in Book 29 at page 143 Record of Surveys, in the Office of the Santa Barbara County Recorder; thence in a general easterly direction along the ordinary high water mark of the Pacific Ocean to a point distant 500 feet westerly from, measured at right angles thereto, the southerly prolongation of the easterly line of that certain tract of land deeded

to Nino Brambilla, et ux., by that certain deed, recorded April 2, 1947, in Book 724 at page 353 of Official Records, in the county recorder's office; thence due south to a point in the Pacific Ocean three nautical miles from the ordinary high water mark; thence in a general westerly direction, parallel with the ordinary high water mark of the Pacific Ocean to a point due south from the point of beginning; thence due north to the point of beginning, and all those tide and submerged lands being in the County of Santa Barbara and lying within an area beginning at the point of intersection of the ordinary high water mark of the Pacific Ocean with the westerly line of Tract 2879 (leased from the state by Union Oil Company), thence northerly and westerly along the ordinary high water mark of the Pacific Ocean to a point at the intersection of the Pacific Ocean and the common boundary line between the Counties of San Luis Obispo and Santa Barbara.

(c) All those tide and submerged lands being in the County of San Luis Obispo and lying within an area beginning at the intersection of the ordinary high water mark of the Pacific Ocean and the common boundary line between the Counties of San Luis Obispo and Santa Barbara; thence northerly and westerly along the ordinary high water mark of the Pacific Ocean and San Luis Obispo Bay to a point at the intersection of the ordinary high water mark of the Pacific Ocean and the common boundary line between the Counties of San Luis Obispo and Monterey; thence northwest along the prolongation of the common boundary line to a point in the Pacific Ocean, the point being the most westerly boundary line of the County of San Luis Obispo; thence in a southerly and easterly direction along the westerly boundary of the County of San Luis Obispo to a point in the Pacific Ocean where the westerly boundary of the County of San Luis Obispo intersects with the common boundary between the Counties of San Luis Obispo and Santa Barbara; thence due east to the point of beginning.

(d) All those tide and submerged lands being in the Counties of Monterey and Santa Cruz and lying within an area beginning at the intersection of the ordinary high water mark of the Pacific Ocean and the common boundary line between the Counties of Monterey and San Luis Obispo; thence northerly and westerly along the ordinary high water mark of the Pacific Ocean and the Bay of Monterey to a point at the intersection of the ordinary high water mark of the Pacific Ocean and the common boundary line between the Counties of Santa Cruz and San Mateo; thence southwest along the prolongation of the common boundary line to a point in the Pacific Ocean, the point being the most westerly boundary line of the County of Santa Cruz; thence in a southerly and easterly direction along the westerly boundary of the Counties of Santa Cruz and Monterey to a point in the Pacific Ocean where the westerly boundary of the County of Monterey intersects with the common boundary between the Counties of Monterey and San Luis Obispo; thence due east to the point of beginning.

(e) All those tide and submerged lands being in the Counties of Humboldt and Mendocino and lying within an area beginning at the intersection of the ordinary high water mark of the Pacific Ocean and the south line of Township 5 South, Humboldt Base Line; thence northerly and westerly along the ordinary high water mark of the Pacific Ocean to the intersection of the high water mark and the north line of Township 1 North, Humboldt Base Line; thence due west to a point in the Pacific Ocean, the point being three nautical miles from the ordinary high water mark; thence in a southerly and easterly direction, parallel to and three nautical miles distant from the high water mark to a point due west from the point of beginning; thence due east to the point of beginning.

(f) Until January 1, 1995, all those tide and submerged lands situated in San Mateo, San Francisco, Marin, Sonoma, Napa, Alameda, Santa Clara, and Del Norte Counties, and all those tide and submerged lands situated in Solano and Contra Costa Counties except those situated east of the parallel Carquinez Bridges (Interstate 80).

(g) All those tide and submerged lands surrounding the Islands of Anacapa, Santa Cruz, Santa Rosa, and San Miguel waterward of the ordinary high water mark of the Pacific Ocean on these islands to a distance three nautical miles therefrom.

(h) All other tide or submerged lands situated in Santa Barbara, Los Angeles, and Orange Counties not under lease on January 1, 1992, unless prior authorization is granted by act of the Legislature, or except in the case of a national emergency as determined by the commission.

This section shall remain in effect only until January 1, 1995, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1995, deletes or extends that date.

SEC. 2. Section 6871.2 is added to the Public Resources Code, to read:

6871.2. Except as provided in Sections 6872 and 6872.1, the commission shall not enter into any lease for the extraction of oil and gas from state-owned tide and submerged lands within the areas to which this section is applicable.

This section is applicable only to the lands within the following described areas, but does not prohibit operations or activities under any state oil and gas leases of any portion or portions of the tide and submerged lands to which this section is applicable and which leases are in effect on January 1, 1955, nor does it prohibit renewals or extensions of any such leases in accordance with the provisions thereof.

(a) All those tide or submerged lands situated in the areas of the County of Los Angeles described as follows:

Area No. 1: Beginning at the point of intersection of the ordinary high water mark of the Pacific Ocean with the southerly point of Point Fermin; thence in a generally northerly and westerly direction along the ordinary high water mark to the Ventura County line;

thence due south three nautical miles to a point in the Pacific Ocean; thence in a generally easterly and southerly direction parallel to the ordinary high water mark to a point in the Pacific Ocean three nautical miles due south from the point of beginning; thence due north to the point of beginning.

Area No. 2: The tide and submerged lands surrounding the Islands of San Clemente and Santa Catalina waterward of the ordinary high water mark of the Pacific Ocean on these islands to a distance three nautical miles therefrom.

(b) All those tide and submerged lands being in the County of Santa Barbara and lying within an area beginning at the point of intersection of the ordinary high water mark of the Pacific Ocean with the westerly line of that certain 408.60 acres, more or less, tract of land shown as belonging to the University of California, Santa Barbara College, upon that certain map thereof, recorded in Book 29 at page 143 Record of Surveys, in the Office of the Santa Barbara County Recorder; thence in a general easterly direction along the ordinary high water mark of the Pacific Ocean to a point distant 500 feet westerly from, measured at right angles thereto, the southerly prolongation of the easterly line of that certain tract of land deeded to Nino Brambilla, et ux., by that certain deed, recorded April 2, 1947, in Book 724 at page 353 of Official Records, in the county recorder's office; thence due south to a point in the Pacific Ocean three nautical miles from the ordinary high water mark; thence in a general westerly direction, parallel with the ordinary high water mark of the Pacific Ocean to a point due south from the point of beginning; thence due north to the point of beginning.

(c) All those tide and submerged lands being in the County of San Luis Obispo and lying within an area beginning at the intersection of the ordinary high water mark of the Pacific Ocean and the common boundary line between the Counties of San Luis Obispo and Santa Barbara; thence northerly and westerly along the ordinary high water mark of the Pacific Ocean and San Luis Obispo Bay to a point at the intersection of the ordinary high water mark of the Pacific Ocean and the common boundary line between the Counties of San Luis Obispo and Monterey; thence northwest along the prolongation of the common boundary line to a point in the Pacific Ocean, the point being the most westerly boundary line of the County of San Luis Obispo; thence in a southerly and easterly direction along the westerly boundary of the County of San Luis Obispo to a point in the Pacific Ocean where the westerly boundary of the County of San Luis Obispo intersects with the common boundary between the Counties of San Luis Obispo and Santa Barbara; thence due east to the point of beginning.

(d) All those tide and submerged lands being in the Counties of Monterey and Santa Cruz and lying within an area beginning at the intersection of the ordinary high water mark of the Pacific Ocean and the common boundary line between the Counties of Monterey and San Luis Obispo; thence northerly and westerly along the

ordinary high water mark of the Pacific Ocean and the Bay of Monterey to a point at the intersection of the ordinary high water mark of the Pacific Ocean and the common boundary line between the Counties of Santa Cruz and San Mateo; thence southwest along the prolongation of the common boundary line to a point in the Pacific Ocean, the point being the most westerly boundary line of the County of Santa Cruz; thence in a southerly and easterly direction along the westerly boundary of the Counties of Santa Cruz and Monterey to a point in the Pacific Ocean where the westerly boundary of the County of Monterey intersects with the common boundary between the Counties of Monterey and San Luis Obispo; thence due east to the point of beginning.

(e) All those tide and submerged lands being in the Counties of Humboldt and Mendocino and lying within an area beginning at the intersection of the ordinary high water mark of the Pacific Ocean and the south line of Township 5 South, Humboldt Base Line; thence northerly and westerly along the ordinary high water mark of the Pacific Ocean to the intersection of the high water mark and the north line of Township 1 North, Humboldt Base Line; thence due west to a point in the Pacific Ocean, the point being three nautical miles from the ordinary high water mark; thence in a southerly and easterly direction, parallel to and three nautical miles distant from the high water mark to a point due west from the point of beginning; thence due east to the point of beginning.

(f) All those tide and submerged lands surrounding the Islands of Anacapa, Santa Cruz, Santa Rosa, and San Miguel waterward of the ordinary high water mark of the Pacific Ocean on these islands to a distance three nautical miles therefrom.

This section shall become operative January 1, 1995.

SEC. 3. Section 6872.5 is added to the Public Resources Code, to read:

6872.5. The commission may modify the boundaries of existing leases to encompass all of a field partially contained within the existing lease subject to the following conditions:

(a) The commission finds that the modification will permit more efficient utilization of state resources.

(b) Those parts of the field within areas added to the existing lease may not be developed except from upland sites or from existing offshore facilities within the original lease boundaries.

SEC. 4. It is the intent of the Legislature that nothing in this act shall affect the authority of the State Lands Commission to lease rights-of-way for pipelines or utilities or other means for necessary ingress, egress, or access to the appropriate facilities.

CHAPTER 836

An act to add Section 3965.1 to the Food and Agricultural Code, relating to fairs.

[Approved by Governor October 11, 1991. Filed with Secretary of State October 14, 1991]

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

SECTION 1. Section 3965.1 is added to the Food and Agricultural Code, to read:

3965.1. Notwithstanding subdivision (d) of Section 3965 or Section 4051, the board may, with the approval of the department, enter into the following types of contracts:

(a) Revenue generating contracts.

(b) Revenue generating contracts involving hazardous activities, as determined by the department, as long as adequate insurance coverage is provided, as determined by the department in consultation with the Department of General Services.

CHAPTER 837

An act to amend Section 19501 of, and to add Section 19501.5 to, the Food and Agricultural Code, relating to agriculture.

[Approved by Governor October 11, 1991. Filed with Secretary of State October 14, 1991]

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

SECTION 1. Section 19501 of the Food and Agricultural Code is amended to read:

19501. Cattle, calves, horses, mules, sheep, swine, goats, or poultry shall be slaughtered by the methods prescribed in this section. No state agency shall contract for, purchase, procure, or sell all or any portion of any animal, unless that animal is slaughtered in conformity with this chapter. This chapter applies to any person engaged in the business of slaughtering animals enumerated in this section, or any person slaughtering any such animal when all, or any part of, that animal is subsequently sold or used for commercial purposes.

All cattle, calves, horses, mules, sheep, swine, goats, or poultry shall be slaughtered by either of the following prescribed methods:

(a) The animal shall be rendered insensible to pain by a captive bolt, gunshot, electrical or chemical means, or any other means that is rapid and effective before being cut, shackled, hoisted, thrown, or cast, with the exception of poultry which may be shackled.

(b) The animal shall be handled, prepared for slaughter, and slaughtered in accordance with ritual requirements of the Jewish or any other religious faith that prescribes a method of slaughter whereby the animal suffers loss of consciousness by anemia of the brain caused by the simultaneous and instantaneous severance of the carotid arteries with a sharp instrument.

This section does not apply to the slaughter of spent hens and small game birds, as defined by the department by regulation.

SEC. 2. Section 19501.5 is added to the Food and Agricultural Code, to read:

19501.5. (a) The department shall, on or before December 31, 1993, adopt regulations to implement Section 19501 as to the slaughter of poultry, and, thereafter, enforce those regulations.

(b) The regulations adopted under subdivision (a) shall apply to any person engaged in the business of slaughtering poultry, or to any person slaughtering poultry when all, or any part of, the poultry is subsequently sold or used for commercial purposes, except as provided in Section 19501. However, the department shall not utilize personnel to enforce those regulations with respect to any poultry plant in this state exempted from Chapter 2 (commencing with Section 24651) of Part 1 of Division 12 by Section 24712, 24713, or 24714.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 838

An act to add Section 1276.5 to the Penal Code, relating to bail bonds.

[Approved by Governor October 11, 1991 Filed with Secretary of State October 14, 1991]

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

SECTION 1. Section 1276.5 is added to the Penal Code, to read:

1276.5. (a) At the time of an initial application to a bail bond licensee for a bail bond which is to be secured by a lien against real property, the bail bond licensee shall provide the property owner with a written disclosure statement in the following form:

"DISCLOSURE OF LIEN AGAINST REAL PROPERTY DO NOT SIGN THIS DOCUMENT UNTIL YOU READ AND UNDERSTAND IT!
THIS BAIL BOND WILL BE SECURED BY REAL PROPERTY YOU OWN OR IN WHICH YOU HAVE AN INTEREST. THE FAILURE TO PAY THE BAIL BOND PREMIUMS WHEN DUE OR THE FAILURE OF THE DEFENDANT TO COMPLY WITH THE CONDITIONS OF BAIL COULD RESULT IN THE LOSS OF YOUR PROPERTY!"

(b) The disclosure required in subdivision (a) shall be made in 14-point bold type by either of the following means:

(1) A separate and specific document attached to or accompanying the application.

(2) A clear and conspicuous statement on the face of the application.

(c) The property owner shall be given a completed copy of the disclosure statement and of the note and deed of trust or other instrument creating the lien against real property prior to the execution of any instrument creating a lien against real property. The failure to fully comply with subdivision (a) or (b), or this subdivision, shall render the deed of trust or other instrument creating the lien against real property voidable.

(d) Within 30 days after notice is given by any individual, agency, or entity to the surety or bail bond licensee of the expiration of the time for appeal of the order exonerating the bail bond, or within 30 days after the payment in full of all moneys owed on the bail bond obligation secured by any lien against real property, whichever is later in time, the bail bond licensee shall deliver to the property owner a fully executed and notarized reconveyance of title, a certificate of discharge, or a full release of any lien against real property to secure performance of the conditions of the bail bond. If a timely notice of appeal of the order exonerating the bail bond is filed with the court, that 30-day period shall begin on the date the determination of the appellate court affirming the order exonerating the bail bond becomes final. Upon the reconveyance, the licensee shall deliver to the property owner the original note and deed of trust, security agreement, or other instrument which secures the bail bond obligation. If the licensee fails to comply with this subdivision, the property owner may petition the superior court to issue an order directing the clerk of the superior court to execute a full reconveyance of title, a certificate of discharge, or a full release of any lien against real property created to secure performance of the conditions of the bail bond. The petition shall be verified and shall allege facts showing that the licensee has failed to comply with this subdivision.

(e) The violation of this section shall make the violator liable to the person affected by the violation for all damages which that person may sustain by reason of the violation plus statutory damages

in the sum of three hundred dollars ($300). The property owner shall be entitled, if he or she prevails, to recover court costs and reasonable attorney's fees as determined by the court in any action brought to enforce this section.

CHAPTER 839

An act to amend Section 52 of the Civil Code, and to amend Section 422.8 of the Penal Code, relating to hate crimes.

[Approved by Governor October 11, 1991 Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 52 of the Civil Code is amended to read:

52. (a) Whoever denies, aids or incites a denial, or makes any discrimination, distinction, or restriction on account of sex, color, race, religion, ancestry, national origin, or blindness or other physical disability contrary to Section 51 or 51.5, is liable for each and every offense for the actual damages, and any amount that may be determined by a jury, or a court sitting without a jury, up to a maximum of three times the amount of actual damage but in no case less than two hundred fifty dollars ($250), and any attorney's fees that may be determined by the court in addition thereto, suffered by any person denied the rights provided in Section 51 or 51.5.

(b) Whoever denies the right provided by Section 51.7, or aids, incites, or conspires in that denial, is liable for each and every offense for the actual damages suffered by any person denied that right and, in addition, the following:

(1) An amount to be determined by a jury, or a court sitting without a jury, up to a maximum of three times the amount of actual damages.

(2) A civil penalty of ten thousand dollars ($10,000) to be awarded to the person denied the right provided by Section 51.7. In the case of multiple offenders, the ten thousand dollar ($10,000) civil penalty shall be prorated between them.

(3) Attorney fees as may be determined by the court.

(c) Whenever there is reasonable cause to believe that any person or group of persons is engaged in conduct of resistance to the full enjoyment of any of the rights hereby secured, and that conduct is of that nature and is intended to deny the full exercise of the rights herein described, the Attorney General, any district attorney or city attorney, or any person aggrieved by the conduct may bring a civil action in the appropriate court by filing with it a complaint. The complaint shall contain the following:

(1) The signature of the officer, or, in his or her absence, the individual acting on behalf of the officer, or the signature of the

person aggrieved.

(2) The facts pertaining to the conduct.

(3) A request for preventive relief, including an application for a permanent or temporary injunction, restraining order, or other order against the person or persons responsible for the conduct, as the complainant deems necessary to ensure the full enjoyment of the rights herein described.

(d) Whenever an action has been commenced in any court seeking relief from the denial of equal protection of the laws under the Fourteenth Amendment to the Constitution of the United States on account of race, color, religion, sex, national origin, or blindness or other physical disability, the Attorney General or any district attorney or city attorney for, or in the name of, the people of the State of California may intervene in the action upon timely application if the Attorney General or any district attorney or city attorney certifies that the case is of general public importance. In that action the people of the State of California shall be entitled to the same relief as if it had instituted the action.

(e) Actions under this section shall be independent of any other remedies or procedures that may be available to an aggrieved party.

(f) Any person claiming to be aggrieved by an alleged unlawful practice in violation of Section 51 or 51.7 may also file a verified complaint with the Department of Fair Employment and Housing pursuant to Section 12948 of the Government Code.

(g) Nothing in this section shall be construed to require any construction, alteration, repair, structural or otherwise, or modification of any sort whatsoever to any new or existing establishment, facility, building, improvement, or any other structure, or to augment, restrict, or alter in any way the authority of the State Architect to require construction, alteration, repair, or modifications that the State Architect otherwise possesses pursuant to other laws.

Nothing in this section shall require any person renting, leasing, or otherwise providing real property for compensation to modify his or her property in any way, or provide a higher degree of care for a blind or other physically disabled person than for a person who is not physically disabled.

SEC. 2. Section 52 of the Civil Code is amended to read:

52. (a) Whoever denies, aids or incites a denial, or makes any discrimination, distinction, or restriction on account of sex, color, race, religion, ancestry, national origin, or blindness or other physical disability contrary to Section 51 or 51.5, is liable for each and every offense for the actual damages, and any amount that may be determined by a jury, or a court sitting without a jury, up to a maximum of three times the amount of actual damage but in no case less than two hundred fifty dollars ($250), and any attorney's fees that may be determined by the court in addition thereto, suffered by any person denied the rights provided in Section 51 or 51.5.

(b) Whoever denies the right provided by Section 51.7, or aids,

incites, or conspires in that denial, is liable for each and every offense for the actual damages suffered by any person denied that right and, in addition, the following:

(1) An amount to be determined by a jury, or a court sitting without a jury, for exemplary damages.

(2) A civil penalty of twenty-five thousand dollars ($25,000) to be awarded to the person denied the right provided by Section 51.7.

(3) Attorney fees as may be determined by the court.

(c) Whenever there is reasonable cause to believe that any person or group of persons is engaged in conduct of resistance to the full enjoyment of any of the rights hereby secured, and that conduct is of that nature and is intended to deny the full exercise of the rights herein described, the Attorney General, any district attorney or city attorney, or any person aggrieved by the conduct may bring a civil action in the appropriate court by filing with it a complaint. The complaint shall contain the following:

(1) The signature of the officer, or, in his or her absence, the individual acting on behalf of the officer, or the signature of the person aggrieved.

(2) The facts pertaining to the conduct.

(3) A request for preventive relief, including an application for a permanent or temporary injunction, restraining order, or other order against the person or persons responsible for the conduct, as the complainant deems necessary to insure the full enjoyment of the rights herein described.

(d) Whenever an action has been commenced in any court seeking relief from the denial of equal protection of the laws under the Fourteenth Amendment to the Constitution of the United States on account of race, color, religion, sex, national origin, or blindness or other physical disability, the Attorney General or any district attorney or city attorney for or in the name of the people of the State of California may intervene in the action upon timely application if the Attorney General or any district attorney or city attorney certifies that the case is of general public importance. In that action the people of the State of California shall be entitled to the same relief as if it had instituted the action.

(e) Actions under this section shall be independent of any other remedies or procedures that may be available to an aggrieved party.

(f) Any person claiming to be aggrieved by an alleged unlawful practice in violation of Section 51 or 51.7 may also file a verified complaint with the Department of Fair Employment and Housing pursuant to Section 12948 of the Government Code.

(g) Nothing in this section shall be construed to require any construction, alteration, repair, structural or otherwise, or modification of any sort whatsoever to any new or existing establishment, facility, building, improvement, or any other structure, or to augment, restrict, or alter in any way the authority of the State Architect to require construction, alteration, repair, or modifications that the State Architect otherwise possesses pursuant

to other laws.

Nothing in this section shall require any person renting, leasing, or otherwise providing real property for compensation to modify his or her property in any way, or provide a higher degree of care for a blind or other physically disabled person than for a person who is not physically disabled.

(h) For the purposes of this section, "actual damages" means special and general damages. This subdivision is declaratory of existing law.

SEC. 3. It is the intent of the Legislature to modify the prerequisite for injunctive relief under Section 52 of the Civil Code. By providing a civil remedy for the classes of persons specifically identified in Sections 51, 51.7, and 52 of the Civil Code, the Legislature does not intend to limit the availability of this remedy for any other form of discrimination which is prohibited by these sections.

SEC. 4. Section 422.8 of the Penal Code is amended to read:

422.8. Except as otherwise required by law, nothing in this title shall be construed to prevent or limit the prosecution of any person pursuant to any provision of law.

SEC. 5. Section 2 of this bill incorporates amendments to Section 52 of the Civil Code proposed by both this bill and SB 98. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1992, (2) each bill amends Section 52 of the Civil Code, and (3) this bill is enacted after SB 98, in which case Section 1 of this bill shall not become operative.

CHAPTER 840

An act to amend Sections 36961, 36991, 38701, 38739, 38801, 38812, 38926, 39183, 39711, 39721, 39731, 39741, 39751, 39761, and 39771 of, and to add and repeal Section 62062.2 of, the Food and Agricultural Code, relating to dairy products.

[Approved by Governor October 11, 1991 Filed with Secretary of State October 14, 1991]

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

SECTION 1. Section 36961 of the Food and Agricultural Code is amended to read:

36961. Lowfat frozen dairy dessert is the food prepared by freezing while stirring a pasteurized mix containing skim milk, concentrated skim milk, nonfat dry milk, whole milk, cream, or edible dried whey, or any combination of those ingredients, and any of the following optional ingredients: water; edible proteins derived from milk; fruit or fruit juices, or both; eggs and egg products; nut meats; any safe and suitable stabilizers, emulsifiers, and nutritive

sweetening agents and nonnutritive sweeteners as specified in Title 21 of the Code of Federal Regulations.

SEC. 2. Section 36991 of the Food and Agricultural Code is amended to read:

36991. Frozen yogurt, lowfat frozen yogurt, and nonfat frozen yogurt are frozen dairy products. They shall be made from milk, with or without added milk solids, flavoring, or seasoning, which has been pasteurized and afterwards fermented by one or more strains of Lactobacillus bulgaricus, including yogurt strains, Streptococcus thermophilus and Lactobacillus acidophilus. They shall not be pasteurized following fermentation. Fruits may be added before or after the mix is pasteurized and cultured. That product may contain safe and suitable stabilizers or emulsifiers as specified in Title 21 of the Code of Federal Regulations. It shall have a titratable acidity of not less than 0.5 percent expressed as lactic acid, except when flavoring is added that contains no fruit or fruit flavoring the titratable acidity may be reduced to not less than 0.30 percent expressed as lactic acid, contain not more than 10 coliform bacteria per gram, contain not more than 10 colonies per gram each of molds, yeasts, and other fungi, and be free of any other objectionable bacteria which may impair the quality of the product. The product shall weigh not less than 4.0 pounds per gallon.

SEC. 3. Section 38701 of the Food and Agricultural Code is amended to read:

38701. Sour cream dressing is a product which is made from pasteurized market cream, with added milk solids derived from market milk, to which any strain, or two or more strains, of lactic acid producing organisms has been added to give it a distinct lactic acid flavor. It shall contain not less than 16 percent of milk fat and not less than 24 percent of total milk solids. It may contain salt and harmless edible stabilizers, emulsifiers, and coagulating enzymes as specified in Title 21 of the Code of Federal Regulations.

SEC. 4. Section 38739 of the Food and Agricultural Code is amended to read:

38739. Whipped topping made from nonfat yogurt shall comply with the following standards:

(a) The product shall contain not less than 25 percent nonfat yogurt by weight.

(b) The product shall contain edible oil or fat other than milk fat and not less than 4 percent or more than 10 percent edible oil or fat from all sources.

(c) The product shall be sold in the frozen state and thawed prior to use. It shall weigh not less than two pounds per gallon.

(d) The product may contain nutritive carbohydrate sweeteners and may be characterized by the addition of flavoring ingredients.

(e) The product may contain harmless edible stabilizers and emulsifiers as specified in Title 21 of the Code of Federal Regulations.

(f) The product may contain fruit juices, harmless flavoring, and harmless coloring.

(g) The product shall be pasteurized.

SEC. 5. Section 38801 of the Food and Agricultural Code is amended to read:

38801. Sour half-and-half or light sour cream is a pasteurized market milk product which has been fermented by the addition of pure cultures of one or more strains of lactic acid bacteria so that the product contains a minimum of 0.20 percent acidity calculated as lactic acid. It may contain added milk solids which are derived from market milk, salt, harmless edible stabilizers, emulsifiers, or coagulating enzymes as specified in Title 21 of the Code of Federal Regulations. It shall contain not less than 6 percent, or more than 12 percent, milk fat. It may contain safe and suitable nutritive sweeteners and ingredients that extend the shelf life of the product. If nutritive sweetener in an amount sufficient to characterize the product is added without the addition of characterizing flavoring, the name of the product on the label shall be preceded by the word "sweetened." Each fluid ounce serving shall, within the limits of good manufacturing practice, contain at least 175 international units of vitamin A.

SEC. 6. Section 38812 of the Food and Agricultural Code is amended to read:

38812. Sour half-and-half dressing shall be sold in containers of at least one-half gallon capacity except when it contains seasoning, fruit, vegetable, seafood, meat, cheese or spice which imparts a distinct flavor to the dressing, in which case it may be sold to consumers in containers of any size. It may contain a harmless edible stabilizer as specified in Title 21 of the Code of Federal Regulations.

SEC. 7. Section 38926 of the Food and Agricultural Code is amended to read:

38926. Nondairy frozen dessert shall comply with the following standards:

(a) The product shall contain not less than one-half of 1 percent of edible oil or fat other than milk fat.

(b) The product shall contain 1.3 pounds of food solids per gallon at the time of sale to the consumer.

(c) The product may contain harmless edible stabilizers and emulsifiers as specified in Title 21 of the Code of Federal Regulations.

(d) The product may contain nutritive carbohydrate sweeteners.

(e) The product may contain fruit or fruit juices, nut meats, harmless flavoring, and harmless coloring.

(f) The product shall not contain more than 75,000 bacteria or 10 coliform bacteria per gram.

SEC. 8. Section 39183 of the Food and Agricultural Code is amended to read:

39183. Imitation ice milk shall contain not less than 2 percent of edible oil or fat, and harmless edible stabilizer as specified in Title 21 of the Code of Federal Regulations.

SEC. 9. Section 39711 of the Food and Agricultural Code is amended to read:

39711. UHT milk and UHT cream is market milk or market cream processed and packaged pursuant to Section 39701. A harmless edible stabilizer as specified in Title 21 of the Code of Federal Regulations may be added to UHT milk or UHT cream.

SEC. 10. Section 39721 of the Food and Agricultural Code is amended to read:

39721. UHT lowfat milk is market milk, evaporated market milk, condensed market milk, or dried market milk, or any combination thereof, processed and packaged pursuant to Section 39701. It may contain harmless edible stabilizers as specified in Title 21 of the Code of Federal Regulations. UHT lowfat milk shall be homogenized.

SEC. 11. Section 39731 of the Food and Agricultural Code is amended to read:

39731. UHT nonfat milk is the product which results from the complete or partial removal of milk fat from market milk. It shall be processed and packaged pursuant to Section 39701. It may contain harmless edible stabilizers as specified in Title 21 of the Code of Federal Regulations. UHT nonfat milk shall be homogenized. The product may be called "nonfat milk" or "skim milk."

SEC. 12. Section 39741 of the Food and Agricultural Code is amended to read:

39741. UHT flavored milk is market milk, evaporated market milk, condensed market milk, or dried market milk, or any combination of them, which contains harmless sweetening, chocolate, chocolate syrup, or other harmless syrup or flavoring, or any combination of these syrups or flavorings, and harmless edible stabilizers as specified in Title 21 of the Code of Federal Regulations. It is homogenized, processed, and packaged pursuant to Section 39701.

SEC. 13. Section 39751 of the Food and Agricultural Code is amended to read:

39751. UHT flavored cream is market cream to which nonfat dry milk solids derived from market milk have been added, which contains harmless flavoring or syrup, or any combination of harmless flavorings or syrups, and harmless edible stabilizers as specified in Title 21 of the Code of Federal Regulations and harmless stabilizing salts. It is homogenized, processed, and packaged pursuant to Section 39701.

SEC. 14. Section 39761 of the Food and Agricultural Code is amended to read:

39761. UHT flavored lowfat milk is market milk, evaporated market milk, condensed market milk, or dried market milk, or any combination thereof, which contains harmless sweetening, chocolate, chocolate syrup, or other harmless syrup or flavoring, or any combination of these syrups or flavorings, and harmless edible stabilizers as specified in Title 21 of the Code of Federal Regulations. UHT flavored lowfat milk shall be homogenized, processed, and packaged pursuant to Section 39701.

SEC. 15. Section 39771 of the Food and Agricultural Code is

amended to read:

39771. UHT flavored drink is milk or skim milk, evaporated, condensed, or dried milk, or nonfat milk solids, or any combination thereof, which contains harmless sweetening, chocolate, chocolate syrup, or other harmless syrup or flavoring, or any combination of these syrups or flavorings, and harmless edible stabilizer as specified in Title 21 of the Code of Federal Regulations. It may be homogenized and shall be processed and packaged pursuant to Section 39701.

SEC. 16. Section 62062.2 is added to the Food and Agricultural Code, to read:

62062.2. (a) The director, through the hearing process and upon determining that an emergency exists, may provide for a temporary increase in the minimum prices of milk established pursuant to this chapter on any or all classes of milk except classes 4a and 4b. This temporary increase of prices shall be separately stated in the stabilization and marketing plan and shall be in effect for not more than 12 months from the date of the adoption of the increase.

(b) For purposes of this section, "emergency" means the existence of a critical condition, as determined by the director, that arises suddenly and unexpectedly, such as, but not limited to, a prolonged dry period, drought, or freeze, that causes severe economic distress to a significant portion of milk producers for an extended period of time as a result of rapid increases in operating costs.

(c) This section shall only be operative when a pooling plan, as provided in Chapter 3 (commencing with Section 62700), is in effect.

(d) The director may adopt, along with any price increase enacted under this section, an additional program in the stabilization and marketing plan or the pooling plan, or both, to encourage the availability of market milk for usage by all classes of milk except classes 4a and 4b.

(e) This section shall remain in effect only until January 1, 1997, and as of that date is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1997, deletes or extends that date.

SEC. 17. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 841

An act to amend Section 4416 of, and to add Section 4008.5 to, the Business and Professions Code, relating to pharmacies, and making an appropriation therefor.

[Approved by Governor October 11, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 4008.5 is added to the Business and Professions Code, to read:

4008.5. (a) As used in this section "pharmacy technician" means an individual who assists a registered pharmacist in a pharmacy in the performance of his or her pharmacy related duties as specified in subdivision (b).

(b) Notwithstanding any other provision of law, a pharmacy technician may perform packaging, manipulative, repetitive, or other nondiscretionary tasks, while assisting, and while under the direct supervision and control of, a registered pharmacist.

(c) This section does not authorize the performance of any tasks specified in subdivision (b) by a pharmacy technician without a registered pharmacist on duty, nor does this section authorize the use of a pharmacy technician to perform tasks specified in subdivision (b) except under the direct supervision and control of a registered pharmacist.

(d) This section does not authorize a pharmacy technician to perform any act requiring the exercise of professional judgment by a registered pharmacist.

(e) The board shall adopt regulations to specify tasks pursuant to subdivision (b) which a pharmacy technician may perform under the direct supervision and control of a registered pharmacist. Any pharmacy that employs a pharmacy technician to perform tasks specified in subdivision (b) shall do so in conformity with the regulations adopted by the board pursuant to this subdivision.

(f) (1) No person shall act as a pharmacy technician without first being registered with the board as a pharmacy technician. The board shall issue a certificate to an applicant who has met any of the following requirements:

(A) Has obtained an Associate of Arts degree in a field of study directly related to the duties performed by a pharmacy technician.

(B) Has completed a course of training specified by the board.

(C) Is eligible to take the board's pharmacist licensure examination.

(D) Has provided satisfactory proof to the board of one year's experience performing the tasks specified in subdivision (b) while employed or utilized as a pharmacy technician to assist in the filling of prescriptions for an inpatient of a hospital, for an inmate of a

correctional facility, or experience deemed equivalent by the board.

(2) The performance of duties by a registered pharmacy technician shall be under the direct supervision and control of a registered pharmacist. The pharmacist on duty shall be directly responsible for the conduct of a pharmacy technician. A pharmacy technician may perform the duties, as specified in subdivision (b) only under the immediate, personal supervision and control of, a registered pharmacist. Any pharmacist responsible for a pharmacy technician shall be on the premises at all times, and the pharmacy technician shall be within the pharmacist's view. A pharmacist shall indicate verification of the prescription by initialing the prescription label before the medication is provided to the patient.

(3) The board shall adopt regulations pursuant to this section for the registration of pharmacy technicians. Proof of the qualifications of any applicant for registration as a pharmacy technician shall be made to the satisfaction of the board and shall be substantiated by evidence as may be required by the board.

The board shall conduct a criminal background check of the applicant to determine if an applicant has committed acts which would constitute grounds for denial of registration, pursuant to this chapter or Chapter 2 (commencing with Section 480) of Division 1.5. The board may suspend or revoke any registration issued pursuant to this section on any ground specified in Section 4350.5.

(4) The board shall adopt regulations pursuant to this subdivision for the specification of training courses for pharmacy technicians.

(5) Paragraphs (1) to (4), inclusive, of this subdivision shall not apply to persons employed or utilized as a pharmacy technician to assist in the filling of prescriptions for an inpatient of a hospital or for an inmate of a correctional facility.

(g) (1) The ratio of pharmacy technicians performing the tasks specified in subdivision (b) to registered pharmacists shall not exceed one to one, except that this ratio shall not apply to personnel performing clerical functions pursuant to Section 4008.4. This ratio is applicable to all practice settings except for an inpatient of a licensed health facility, a patient of a licensed home health agency, as specified in paragraph (2), an inmate of a correctional facility of the Department of the Youth Authority or the Department of Corrections, and for a person receiving treatment in a facility operated by the State Department of Mental Health, the State Department of Developmental Services, or the Department of Veterans Affairs.

(2) The board may adopt regulations establishing the ratio of pharmacy technicians performing the tasks specified in subdivision (b) to registered pharmacists applicable to the filling of prescriptions for an inpatient of a licensed health facility and for a patient of a licensed home health agency. Any ratio established by the board pursuant to this subdivision shall allow, at a minimum, at least one pharmacy technician for each pharmacist, except that this ratio shall not apply to personnel performing clerical functions pursuant to

Section 4008.4.

SEC. 2. Section 4416 of the Business and Professions Code is amended to read:

4416. The amount of fees and penalties prescribed by this chapter, except as otherwise provided, is that fixed by the board according to the following schedule:

(a) The fee for a nongovernmental pharmacy license shall be three hundred forty dollars ($340) and may be increased to four hundred dollars ($400).

The fee for a nongovernmental pharmacy annual renewal shall be one hundred seventy-five dollars ($175) and may be increased to two hundred fifty dollars ($250).

(b) The fee for processing remodeling plans and inspecting a remodeled pharmacy shall be one hundred thirty dollars ($130) and may be increased to one hundred seventy-five dollars ($175).

(c) The fee for the pharmacist examination shall be one hundred fifty-five dollars ($155) and may be increased to one hundred eighty-five dollars ($185).

(d) The fee for regrading an examination shall be seventy-five dollars ($75) and may be increased to eighty-five dollars ($85). If an error in grading is found and the applicant passes the examination, the regrading fee shall be refunded.

(e) The fee for a pharmacist license and biennial renewal shall be one hundred fifteen dollars ($115) and may be increased to one hundred fifty dollars ($150).

(f) The fee for a wholesaler permit and annual renewal shall be five hundred fifty dollars ($550) and may be increased to six hundred dollars ($600).

(g) The fee for a hypodermic license and renewal shall be ninety dollars ($90) and may be increased to one hundred twenty-five dollars ($125).

(h) The fee for examination and investigation for an exemption certificate under Sections 4050.5 and 4050.7 shall be seventy-five dollars ($75) and may be increased to one hundred dollars ($100).

(i) The fee for an exemption certificate and annual renewal under Sections 4050.5 and 4050.7 shall be one hundred ten dollars ($110) and may be increased to one hundred fifty dollars ($150).

(j) The fee for an out-of-state drug distributor's license and annual renewal issued pursuant to Section 4084.6 shall be five hundred fifty dollars ($550) and may be increased to six hundred dollars ($600).

(k) The fee for registration and annual renewal of providers of continuing education shall be one hundred dollars ($100) and may be increased to one hundred thirty dollars ($130).

(*l*) The fee for evaluation of continuing education courses for accreditation shall be set by the board at an amount not to exceed forty dollars ($40) per course hour.

(m) The fee for evaluation of applications submitted by graduates of foreign colleges of pharmacy or colleges of pharmacy not recognized by the board shall be one hundred sixty-five dollars

($165) and may be increased to one hundred seventy-five dollars ($175).

(n) The fee for an intern license or extension shall be sixty-five dollars ($65) and may be increased to seventy-five dollars ($75). The fee for transfer of intern hours or verification of licensure to another state shall be fixed by the board not to exceed twenty dollars ($20).

(o) The board may, by regulation, provide for the waiver or refund of the additional fee for the issuance of a certificate where the certificate is issued less than 45 days before the next succeeding regular renewal date.

(p) The board shall collect all accrued and unpaid renewal fees and the applicable penalty fees for a pharmacist license that has been delinquent for more than one year.

(q) The fee for the reissuance of any permit, license, or certificate, or renewal thereof, which has been lost or destroyed or reissued due to a name change is thirty dollars ($30).

The fee for the reissuance of any permit, license, or certificate, or renewal thereof, which must be reissued because of a change in the information, is sixty dollars ($60) and may be increased to one hundred dollars ($100).

(r) It is the intent of the Legislature that, in setting fees pursuant to this section, the board shall seek to maintain a reserve in the Pharmacy Board Contingent Fund equal to approximately one year's operating expenditures.

(s) The fee for any applicant for a clinic permit is three hundred forty dollars ($340) and may be increased to four hundred dollars ($400) for each permit. The annual fee for renewal of the permit is one hundred seventy-five dollars ($175) and may be increased to two hundred fifty dollars ($250) for each permit.

(t) The board shall charge a fee for the processing and issuance of a registration to a pharmacy technician and a separate fee for the biennial renewal of the registration. The registration fee shall be twenty-five dollars ($25), and may be increased to fifty dollars ($50). The biennial renewal fee shall be twenty-five dollars ($25), and may be increased to fifty dollars ($50).

CHAPTER 842

An act to amend Sections 86, 777, and 778 of the Harbors and Navigation Code, and to add Chapter 18 (commencing with Section 42900) to Part 3 of Division 30 of the Public Resources Code, relating to waste.

[Approved by Governor October 11, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 86 of the Harbors and Navigation Code is amended to read:

86. (a) The local public agency shall certify to the department that for any small craft harbor or boating facility project which is, or has been, funded pursuant to Section 70, 70.2, 70.8, 71.4, 72.5, or 76.3, or a harbor constructed with funds from the State Lands Commission from tidelands oil revenues, adequate restroom and sanitary facilities, parking, refuse disposal, vessel pumpout facilities as required pursuant to Section 776, walkways, oil recycling facilities, receptacles for the purpose of separating, reusing, or recycling all solid waste materials, and other necessary shoreside facilities sufficient for the use and operation of all vessels using the harbor or facility are provided or provide written findings showing why the facility cannot certify to these conditions.

(b) No city, county, or district, which has received or is receiving money under this division for the construction or improvement of small craft harbors which provides facilities for the operation of commercial fishing vessels registered pursuant to Article 4 (commencing with Section 7880) of Chapter 1 of Part 3 of Division 6 of the Fish and Game Code, shall prohibit the commercial operation and use of those facilities by commercial passenger fishing vessels of the same or similar displacement, which are licensed pursuant to Section 7920 of the Fish and Game Code, or the use by private recreational vessels unless otherwise expressly provided by law, unless the city, county, or district provides, elsewhere in the same harbor, alternative, equivalent facilities available at comparable cost for the commercial operation and use of commercial passenger fishing vessels and private recreational vessels or unless the city, county, or district adopts written findings showing why the existing facility cannot accommodate the operation of commercial fishing vessels, including commercial passenger fishing vessels, or private recreational vessels and why the facility cannot be modified to do so or why alternative, equivalent facilities cannot be provided in the same harbor to accommodate those operations. This subdivision does not require a facility to accept an application for the operation of an additional commercial passenger fishing boat at that facility if the harbor provides alternative, equivalent, adequate, safe facilities at comparable cost for the operation and use of commercial passenger fishing boats or if accommodations for the operation of the additional commercial passenger fishing boat are not reasonably available at the facility under the contract or agreement.

For the purposes of this subdivision, an alternative, equivalent facility in the same harbor shall provide, at comparable cost, adequate restroom and sanitary facilities, parking, refuse disposal,

walkways, power and water service, and other shoreside facilities and equivalent docks, water channels, navigation aids, and weather protection, including, but not limited to, breakwaters, which are equivalent to the facility funded pursuant to Section 70, 70.2, 70.8, 71.4, 72.5, or 76.3.

(c) Any loan, grant, contract or agreement, or plan funded pursuant to Section 70, 70.2, 70.8, 71.4, 72.5, or 76.3 for any small craft harbor or boating facility project shall provide for construction, development, or improvement of facilities to substantially meet the provisions of subdivisions (a) and (b) and to provide vehicular access roads to the harbor or facility, as recommended by the Department of Transportation pursuant to Division 13 (commencing with Section 21000) of the Public Resources Code, unless the reasons for not meeting those provisions and recommendations are set forth in the contract or agreement with the department, or an addendum thereto.

(d) During the term of any existing or new loan contract made pursuant to Section 71.4 or 76.3, or any existing or new contract or agreement pursuant to Section 70, 70.2, or 70.8, the department shall supervise and monitor compliance with subdivisions (b) and (c) and the operation and maintenance of the harbor or facility to assure that the planning, construction, development, or improvement fully complies with this section and the contract or agreement terms and conditions.

(e) For the purposes of this chapter and Chapter 2 (commencing with Section 70), any harbor or facility which is the subject of a contract or agreement as described in subdivision (d), is under the jurisdiction of the department.

SEC. 2. Section 777 of the Harbors and Navigation Code is amended to read:

777. (a) Vessel pumpout facilities for the transfer and disposal of sewage from marine sanitation devices, floating restrooms, and onshore toilets shall be operated and maintained in a manner that will prevent the discharge of any sewage to the waters of the state and shall be maintained in good working order and regularly cleaned.

(b) Every vessel pumpout facility shall have a notice posted on the facility identifying the city, county, local public health officer, or boating law enforcement officer responsible for enforcing this chapter pursuant to Section 779, with the telephone number where a violation of subdivision (a) may be reported.

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

SEC. 3. Section 778 of the Harbors and Navigation Code is amended to read:

778. The state board shall adopt standards for the location, construction, operation, and maintenance of vessel pumpout

facilities.

SEC. 4. Chapter 18 (commencing with Section 42900) is added to Part 3 of Division 30 of the Public Resources Code, to read:

CHAPTER 18. CALIFORNIA SOLID WASTE REUSE AND RECYCLING ACCESS ACT OF 1991

Article 1. Short Title and Findings and Declarations

42900. This chapter shall be known and may be cited as the California Solid Waste Reuse and Recycling Access Act of 1991.

42901. The Legislature finds and declares as follows:

(a) Cities and counties must divert 50 percent of all solid waste by January 1, 2000, through source reduction, recycling, and composting activities.

(b) Diverting 50 percent of all solid waste requires the participation of the residential, commercial, industrial, and public sectors.

(c) The lack of adequate areas for collecting and loading recyclable materials that are compatible with surrounding land uses is a significant impediment to diverting solid waste and constitutes an urgent need for state and local agencies, to address access to solid waste for source reduction, recycling, and composting activities.

Article 2. Definitions

42905. As used in this chapter, "development project" means any of the following:

(a) A project for which a building permit will be required for a commercial, industrial, or institutional building, marina, or residential building having five or more living units, where solid waste is collected and loaded and any residential project where solid waste is collected and loaded in a location serving five or more units.

(b) Any new public facility where solid waste is collected and loaded and any improvements for areas of a public facility used for collecting and loading solid waste.

Article 3. Ordinances

42910. (a) Not later than March 1, 1993, after holding a public hearing, the board shall adopt a model ordinance for adoption by any local agency relating to adequate areas for collecting and loading recyclable materials in development projects.

(b) The board shall consult with representatives of the League of California Cities, County Supervisors Association of California, American Planning Association, American Institute of Architects, private and public waste services, building construction and management, and retail businesses in developing the model ordinance.

(c) Not later than January 1, 1993, the board shall distribute the draft model ordinance to all local agencies and other interested parties for review. Any comments shall be submitted to the board by February 1, 1993, for consideration at the public hearing of the board to adopt the ordinance.

42911. (a) By September 1, 1993, each local agency shall adopt an ordinance relating to adequate areas for collecting and loading recyclable materials in development projects.

(b) If by September 1, 1993, a local agency has not adopted an ordinance for collecting and loading recyclable materials in development projects, the model ordinance adopted pursuant to Section 42910 shall take effect on that date and shall be enforced by the local agency and have the same force and effect as if adopted by the local agency as an ordinance.

SEC. 5. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 843

An act to add Chapter 12.5 (commencing with Section 42620) to Part 3 of Division 30 of the Public Resources Code, relating to solid waste, and making an appropriation therefor.

[Approved by Governor October 11, 1991 Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Chapter 12.5 (commencing with Section 42620) is added to Part 3 of Division 30 of the Public Resources Code, to read:

CHAPTER 12.5. SCHOOLSITE SOURCE REDUCTION AND RECYCLING

42620. (a) The Legislature finds as follows:

(1) There are 1,029 school districts and 7,170 schools in California.

(2) Source reduction and recycling programs in the schools will significantly assist cities and counties in meeting the solid waste diversion goals set for 1995 and the year 2000, by Section 41780.

(3) Source reduction and recycling programs in the schools will also educate children on the importance of these activities, and will teach them waste management skills that will last throughout their

lives.

(b) The Legislature, therefore, declares that school districts throughout the state should be assisted in establishing and implementing source reduction and recycling programs.

42621. The board shall develop and implement a source reduction and recycling program for school districts which shall include, but not be limited to, the following elements:

(a) A survey of school districts throughout the state to determine which districts already have recycling programs and which need those programs.

(b) Development of a model waste reduction and recycling program for school districts.

(c) Providing training for school districts on how to implement recycling programs.

(d) Providing ongoing technical and informational assistance for school districts implementing source reduction and recycling programs.

(e) Establishment of a repository of literature and teaching materials from other states and institutions which have instituted recycling programs for their waste stream.

(f) Determining the types of equipment needed by school districts to implement recycling programs.

(g) Providing assistance to school districts in locating markets for their recyclable materials.

(h) Development and implementation of a tracking system to determine the amount of materials collected and recycled in each school district.

(i) Disseminating information to school districts on office equipment and other items which are made from recycled materials and which are available for purchase by school districts.

42622. The source reduction and recycling program for school districts developed pursuant to Section 42621 shall, to the extent feasible, be designed to complement and further the educational goals of the supplementary educational materials developed pursuant to Section 42603, and the integrated waste management issues addressed within the science framework developed by the State Board of Education.

42623. On and after March 31, 1994, the board shall, in the report required to be prepared pursuant to Section 40507, report on the status and effectiveness of school district source reduction and recycling programs implemented pursuant to this chapter and shall make recommendations on administrative and legislative changes to improve the program's effectiveness.

SEC. 2. The sum of one hundred twenty-five thousand dollars ($125,000) is hereby appropriated from the Integrated Waste Management Account in the Integrated Waste Management Fund to the California Integrated Waste Management Board to develop and implement a school district source reduction and recycling program pursuant to Chapter 12.5 (commencing with Section 42620) of Part

3 of Division 30 of the Public Resources Code.

CHAPTER 844

An act to add Sections 1603.1 and 5650.1 to the Fish and Game Code, relating to fines and penalties, and making an appropriation therefor.

[Approved by Governor October 11, 1991 Filed with Secretary of State October 14, 1991]

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

SECTION 1. Section 1603.1 is added to the Fish and Game Code, to read:

1603.1. (a) Every person who violates Section 1603 is subject to a civil penalty of not more than twenty-five thousand dollars ($25,000) for each violation.

(b) The civil penalty imposed for each separate violation pursuant to this section is separate, and in addition to, any other civil penalty imposed for a separate violation pursuant to this section or any other provision of law.

(c) In determining the amount of any civil penalty imposed pursuant to this section, the court shall take into consideration the nature, circumstance, extent, and gravity of the violation. In making this determination, the court may consider the degree of toxicity and volume of the discharge, whether the effects of the violation may be reversed or mitigated, and with respect to the defendant, the ability to pay, the effect of any civil penalty on the ability to continue in business, any voluntary cleanup efforts undertaken, any prior history of violations, the gravity of the behavior, the economic benefit, if any, resulting from the violation, and any other matters the court determines justice may require.

(d) Every civil action brought under this section shall be brought by the Attorney General upon complaint by the department, or by the district attorney or city attorney in the name of the people of the State of California, and any actions relating to the same violation may be joined or consolidated.

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

(1) That irreparable damage will occur if the temporary restraining order, preliminary injunction, or permanent injunction is not issued.

(2) The remedy at law is inadequate. The court shall issue a temporary restraining order, preliminary injunction, or permanent injunction in a civil action brought pursuant to this chapter without

the allegations and without the proof specified in this paragraph or paragraph (1).

(f) All civil penalties collected pursuant to this section shall not be considered fines or forfeitures as defined in Section 13003 and shall be apportioned in the following manner:

(1) Fifty percent shall be distributed to the county treasurer of the county in which the action is prosecuted. Amounts paid to the county treasurer shall be deposited in the county fish and wildlife propagation fund established pursuant to Section 13100.

(2) Fifty percent shall be distributed to the department for deposit in the Fish and Game Preservation Fund. These funds may be expended to cover the costs of any legal actions or for any other law enforcement purpose consistent with Section 9 of Article XVI of the California Constitution.

SEC. 2. Section 5650.1 is added to the Fish and Game Code, to read:

5650.1. (a) Every person who violates Section 5650 is subject to a civil penalty of not more than twenty-five thousand dollars ($25,000) for each violation.

(b) The civil penalty imposed for each separate violation pursuant to this section is separate, and in addition to, any other civil penalty imposed for a separate violation pursuant to this section or any other provision of law.

(c) In determining the amount of any civil penalty imposed pursuant to this section, the court shall take into consideration the nature, circumstance, extent, and gravity of the violation. In making this determination, the court may consider the degree of toxicity and volume of the discharge, whether the effects of the violation may be reversed or mitigated, and with respect to the defendant, the ability to pay, the effect of any civil penalty on the ability to continue in business, any voluntary cleanup efforts undertaken, any prior history of violations, the gravity of the behavior, the economic benefit, if any, resulting from the violation, and any other matters the court determines justice may require.

(d) Every civil action brought under this section shall be brought by the Attorney General upon complaint by the department, or by the district attorney or city attorney in the name of the people of the State of California, and any actions relating to the same violation may be joined or consolidated.

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

(1) That irreparable damage will occur if the temporary restraining order, preliminary injunction, or permanent injunction is not issued.

(2) The remedy at law is inadequate. The court shall issue a temporary restraining order, preliminary injunction, or permanent injunction in a civil action brought pursuant to this chapter without

the allegations and without the proof specified in this paragraph or paragraph (1).

(f) All civil penalties collected pursuant to this section shall not be considered fines or forfeitures as defined in Section 13003 and shall be apportioned in the following manner:

(1) Fifty percent shall be distributed to the county treasurer of the county in which the action is prosecuted. Amounts paid to the county treasurer shall be deposited in the county fish and wildlife propagation fund established pursuant to Section 13100.

(2) Fifty percent shall be distributed to the department for deposit in the Fish and Game Preservation Fund. These funds may be expended to cover the costs of legal actions or for any other law enforcement purpose consistent with Section 9 of Article XVI of the California Constitution.

CHAPTER 845

An act to amend Sections 2207, 2714, 2770, 2773.1, 2774, and 2774.4 of the Public Resources Code, relating to mining.

[Approved by Governor October 11, 1991 Filed with Secretary of State October 14, 1991]

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

SECTION 1. Section 2207 of the Public Resources Code is amended to read:

2207. (a) The owner, lessor, lessee, agent, manager, or other person in charge of any mining operation of whatever kind or character within the state shall forward to the State Geologist not later than July 1, 1991, and every year thereafter not later than an anniversary date established by the State Geologist, upon forms which will be furnished by the board, a report which identifies all of the following:

(1) The name, address, and telephone number of the person, company, or other owner of the mining operation.

(2) The name, address, and telephone number of a designated agent who resides in this state, and who will receive and accept service of all orders, notices, and processes of the lead agency, board, State Geologist, or court.

(3) The location of the mining operation, its name, and starting with the 1992 report, its mine number as issued by the Bureau of Mines or the State Geologist, its section, township, range, latitude, longitude, and approximate boundaries of the mining operation marked on a United States Geological Survey 7½-minute or 15-minute quadrangle map.

(4) The lead agency.

(5) The approval date of the mining operation's reclamation plan.

(6) The mining operation's status as active, idle, reclaimed, or in the process of being reclaimed.

(7) The commodities produced by the mine and the type of mining operation.

(8) Proof of annual inspection by the lead agency, starting with the 1992 report.

(9) Proof of financial assurances, starting with the 1992 report.

(10) Ownership of the property, including government agencies, if applicable, by the assessor's parcel number, and total assessed value of the mining operation.

(11) The approximate permitted size of the mining operation subject to Chapter 9 (commencing with Section 2710), in acres.

(12) The approximate total acreage of land newly disturbed by the mining operation during the previous calendar year.

(13) The approximate total of disturbed acreage reclaimed during the previous calendar year.

(14) The approximate total unreclaimed disturbed acreage remaining as of the end of the calendar year.

(15) The total production for each mineral commodity produced during the previous year.

(16) A copy of any approved reclamation plan and any amendments or conditions of approval to any existing reclamation plan approved by the lead agency.

(b) The person submitting the report pursuant to subdivision (a) shall forward to the lead agency, as defined in Section 2728, not later than July 1, 1991, and every year thereafter not later than the anniversary date established by the State Geologist, upon forms which will be furnished by the board, a report which provides all of the information specified in paragraphs (1) to (14), inclusive, of subdivision (a).

(c) Subsequent reports shall include only changes in the information submitted for the items described in subdivision (a), except that, instead of the approved reclamation plan, the reports shall include any reclamation plan amendments approved during the previous year. The reports shall state whether review of a reclamation plan, financial assurances, or an interim management plan is pending under subdivision (b), (c), (d), or (h) of Section 2770, or whether an appeal before the board or lead agency governing body is pending under subdivision (e) or (h) of Section 2770. The State Geologist shall notify the person submitting the report and the owner's designated agent in writing that the report and the fee required pursuant to subdivision (d) have been received, specify the anniversary date by which the mining operation shall submit reports subsequent to 1991, specify the mining operation's mine number if one has not been issued by the Bureau of Mines, and notify the person and agent of any deficiencies in the report within 90 days of receipt. That person or agent shall have 30 days from receipt of the notification to correct the noted deficiencies and forward the revised reports to the State Geologist and the lead

agency. Any person who fails to comply with this section, or knowingly provides incorrect or false information in reports required by this section, may be subject to an administrative penalty as provided in subdivision (c) of Section 2774.1.

(d) (1) The board shall impose, by regulations adopted by May 1, 1991, pursuant to paragraph (2), an annual reporting fee on, and method for collecting annual fees from, each active or idle mining operation. The maximum fee for any single mining operation shall not exceed two thousand dollars ($2,000) annually and shall not be less than fifty dollars ($50) annually.

(2) The board shall adopt, by emergency regulations, a schedule of fees authorized under paragraph (1). In establishing the schedule of fees to be paid by each active and idle mining operation, the fees shall be calculated on an equitable basis reflecting the size and type of operation. The board shall also consider the total assessed value of the mining operation, the acreage disturbed by mining activities, and the acreage subject to the reclamation plan. For fiscal year 1991–92, the total revenue generated by the reporting fees established pursuant to paragraph (1) shall not exceed one million one hundred thirty-two thousand dollars ($1,132,000), which shall be adjusted in fiscal years 1992–93 and 1993–94 to reflect increases in the cost of living, as measured by the United States Department of Labor Consumer Price Index. Beginning in fiscal year 1994–95, the total revenue generated by the reporting fees for subsequent fiscal years shall not exceed a base of one million dollars ($1,000,000), as adjusted for the cost of living beginning with fiscal year 1991–92 and annually thereafter. Beginning in fiscal year 1992–93, the board shall automatically adjust the fees each fiscal year to conform with the revenue levels prescribed by this section and appropriated by the Legislature. If the department determines that the revenue collected during the preceding fiscal year was greater or less than the applicable base amount, plus the appropriate cost of living adjustments, the board shall adjust the fees to compensate for the over collection or under collection of revenues.

(3) The emergency regulations adopted pursuant to paragraph (2) or subsequent adjustments to the annual fees, shall be adopted by the board in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. The adoption of these regulations is an emergency and shall be considered by the Office of Administrative Law as necessary for the immediate preservation of the public peace, health, safety, and general welfare.

(4) The reporting fees established pursuant to paragraph (1) shall be deposited in the Mine Reclamation Account, which is hereby created. Any fees, penalties, interest, fines, or charges collected by the department, State Geologist, or board pursuant to this chapter or Chapter 9 (commencing with Section 2710) shall be deposited in the Mine Reclamation Account. The money in the fund shall be available to the department, the State Geologist, and the board, upon

appropriation by the Legislature, solely to carry out this section and Chapter 9 (commencing with Section 2710), and up to three hundred thousand dollars ($300,000) shall be available to the department upon appropriation by the Legislature to contract for preparation of the report required by Section 2774.6.

(5) In case of late payment of the reporting fee, a penalty of not less than one hundred dollars ($100) or 10 percent of the amount due, whichever is greater, plus interest at the rate 1½ percent per month, computed from the delinquent date of the assessment until and including the date of payment, shall be assessed. New mining operations which have not submitted a report are required to submit a report prior to commencement of operations. The new operation shall submit its fee according to the reasonable fee schedule adopted by the board, and the month that the report is received shall become that operation's anniversary month.

(e) The lead agency may impose a fee upon each mining operation to cover the reasonable costs incurred in implementing this chapter and Chapter 9 (commencing with Section 2710).

(f) For purposes of this section, "mining operation" means any operation as defined in Section 2735, unless excepted by Section 2714.

(g) Any information in reports submitted pursuant to subdivision (a) which includes or otherwise indicates the total mineral production, reserves, or rate of depletion of any mining operation shall not be disclosed to any member of the public, as defined in subdivision (f) of Section 6252 of the Government Code. Other portions of the reports are public records unless excepted by statute. Statistical bulletins based on these reports and published under Section 2205 shall be compiled to show, for the state as a whole and separately for each lead agency, the total of each mineral produced therein. In order not to disclose the production, reserves, or rate of depletion from any identifiable mining operation, no production figure shall be published or otherwise disclosed unless that figure is the aggregated production of not less than three mining operations. If the production figure for any lead agency would disclose the production, reserves, or rate of depletion of less than three mining operations or otherwise permit the reasonable inference of the production, reserves, or rate of depletion of any identifiable mining operation, that figure shall be combined with the same such figure of not less than two other lead agencies without regard to the location of the lead agencies. The bulletin shall be published annually by June 30 or as soon thereafter as practicable.

SEC. 2. Section 2714 of the Public Resources Code is amended to read:

2714. This chapter does not apply to any of the following activities:

(a) Excavations or grading conducted for farming or onsite construction or for the purpose of restoring land following a flood or natural disaster.

(b) Prospecting for, or the extraction of, minerals for commercial

purposes and the removal of overburden in total amounts of less than 1,000 cubic yards in any one location of one acre or less.

(c) Surface mining operations that are required by federal law in order to protect a mining claim, if those operations are conducted solely for that purpose.

(d) Any other surface mining operations that the board determines to be of an infrequent nature and which involve only minor surface disturbances.

(e) The solar evaporation of sea water or bay water for the production of salt and related minerals.

SEC. 3. Section 2770 of the Public Resources Code is amended to read:

2770. (a) Except as provided in this section, no person shall conduct surface mining operations unless a permit is obtained from, a reclamation plan has been submitted to and approved by, and financial assurances for reclamation have been approved by, the lead agency for the operation pursuant to this article.

(b) Any person with an existing surface mining operation who has vested rights pursuant to Section 2776 and who does not have an approved reclamation plan shall submit a reclamation plan to the lead agency not later than March 31, 1988. If a reclamation plan application is not on file by March 31, 1988, the continuation of the surface mining operation is prohibited until a reclamation plan is submitted to the lead agency. For purposes of this subdivision, reclamation plans may consist of all or the appropriate sections of any plans or written agreements previously approved by the lead agency or another agency, together with any additional documents needed to substantially meet the requirements of Sections 2772 and 2773 and the lead agency surface mining ordinance adopted pursuant to subdivision (a) of Section 2774, provided that all documents which together were proposed to serve as the reclamation plan are submitted for approval to the lead agency in accordance with this chapter.

(c) If a person with an existing surface mining operation has received lead agency approval of its financial assurances for reclamation prior to January 1, 1991, the lead agency shall administratively review those existing financial assurances in accordance with subdivision (d) prior to January 1, 1992. The review of existing financial assurances shall not be considered a project within the meaning of Division 13 (commencing with Section 21000). Any person with an existing surface mining operation which does not have financial assurances that received lead agency approval prior to January 1, 1991, shall submit financial assurances for reclamation for review in accordance with subdivision (d).

(d) The lead agency's review of reclamation plans submitted pursuant to subdivision (b) or of financial assurances pursuant to subdivision (c) is limited to whether the plan or the financial assurances substantially meet the applicable requirements of Sections 2772, 2773, and 2773.1, and the lead agency surface mining

ordinance adopted pursuant to subdivision (a) of Section 2774, but in any event the lead agency shall require that financial assurances for reclamation be sufficient to perform reclamation of lands remaining disturbed. Reclamation plans or financial assurances judged to substantially meet these requirements shall be approved by the lead agency for purposes of this chapter. Reclamation plans or financial assurances judged as not substantially meeting these requirements shall be returned to the operator within 60 days. The operator has 60 days to revise the plan or financial assurances to address identified deficiencies, at which time the revised plan or financial assurances shall be returned to the lead agency for review and approval. Except as specified in subdivision (e) or (i), if the reclamation plan remains unapproved by July 1, 1990, or if the financial assurances remain unapproved by January 1, 1992, the continuation of the surface mining operation is prohibited until a reclamation plan and financial assurances for reclamation are approved by the lead agency.

(e) Any person who, based on the evidence of the record, can substantiate that a lead agency has either (1) failed to act according to due process or has relied on considerations not related to the specific applicable requirements of Sections 2772, 2773, and 2773.1, and the lead agency surface mining ordinance adopted pursuant to subdivision (a) of Section 2774, in reaching a decision to deny approval of a reclamation plan or financial assurances for reclamation, (2) failed to act within a reasonable time of receipt of a completed application, or (3) failed to review and approve reclamation plans or financial assurances as required by subdivisions (c) and (d), may appeal that action or inaction to the board.

(f) The board may decline to hear an appeal if it determines that the appeal raises no substantial issues related to the lead agency's review pursuant to this section.

(g) Appeals that the board does not decline to hear shall be scheduled and heard at a public hearing within 45 days of the filing of the appeal, or any longer period as may be mutually agreed upon by the board and the person filing the appeal. In hearing an appeal, the board shall only determine whether the reclamation plan or the financial assurances substantially meet the applicable requirements of Sections 2772, 2773, 2773.1, and the lead agency surface mining ordinance adopted pursuant to subdivision (a) of Section 2774. A reclamation plan or financial assurances judged to meet these requirements shall be approved. A reclamation plan or financial assurances judged not to meet these requirements shall be returned to the person filing the appeal with a notice of deficiencies, who shall be granted, once only, a period of 30 days, or a longer period mutually agreed upon by the operator and the board, to correct the noted deficiencies and submit the revised reclamation plan or the revised financial assurances to the lead agency for review and approval.

(h) Within 90 days of a surface mining operation becoming idle,

as defined in Section 2727.1, the operator shall submit to the lead agency for review and approval, an interim management plan. The review and approval of an interim management plan shall not be considered a project within the meaning of Division 13 (commencing with Section 21000). The approved interim management plan shall be considered an amendment to the surface mining operation's approved reclamation plan, for purposes of this chapter. The interim management plan shall provide measures the operator will implement to maintain the site in compliance with this chapter, including, but not limited to, all permit conditions.

The interim management plan may remain in effect for a period not to exceed five years, at which time the lead agency shall do one of the following:

(1) Renew the interim management plan for another period not to exceed five years, if the lead agency finds that the surface mining operator has complied fully with the interim management plan.

(2) Require the surface mining operator to commence reclamation in accordance with its approved reclamation plan.

In any event, financial assurances required by Section 2773.1 shall remain in effect during the period the surface mining operation is idle. If the surface mining operation is still idle after expiration of its interim management plan, the surface mining operation shall commence reclamation in accordance with its approved reclamation plan.

Within 60 days of the receipt of the interim management plan, or a longer period mutually agreed upon by the lead agency and the operator, the lead agency shall review and approve the plan in accordance with its ordinance adopted pursuant to subdivision (a) of Section 2774, so long as the plan satisfies the above requirements, and so notify the operator in writing. Otherwise, the lead agency shall notify the operator in writing of any deficiencies in the plan. The operator shall have 30 days, or a longer period mutually agreed upon by the operator and the lead agency, to submit a revised plan.

The lead agency shall approve or deny approval of the revised interim management plan within 60 days of receipt. If the lead agency denies approval of the revised interim management plan, the operator may appeal that action to the lead agency's governing body, which shall schedule a public hearing within 45 days of the filing of the appeal, or any longer period mutually agreed upon by the operator and the governing body.

Unless review of an interim management plan is pending before the lead agency, or an appeal is pending before the lead agency's governing body, a surface mining operation which remains idle for over one year after becoming idle as defined in Section 2727.1 without obtaining approval of an interim management plan shall be considered abandoned and the operator shall commence and complete reclamation in accordance with the approved reclamation plan.

(i) Any enforcement action which may be brought against a

surface mining operation for operating without an approved reclamation plan, financial assurance, or interim management plan, shall be held in abeyance pending review pursuant to subdivision (b), (c), (d), or (h) or the resolution of an appeal filed with the board pursuant to subdivision (e), or with a lead agency governing body pursuant to subdivision (h).

SEC. 4. Section 2773.1 of the Public Resources Code is amended to read:

2773.1. (a) Lead agencies shall require financial assurances of each surface mining operation to ensure reclamation is performed in accordance with the surface mining operation's approved reclamation plan, as follows:

(1) Financial assurances may take the form of surety bonds, irrevocable letters of credit, trust funds, or other forms of financial assurances specified by the board pursuant to subdivision (e), which the lead agency reasonably determines are adequate to perform reclamation in accordance with the surface mining operation's approved reclamation plan.

(2) The financial assurances shall remain in effect for the duration of the surface mining operation and any additional period until reclamation is completed.

(3) The amount of financial assurances required of a surface mining operation for any one year shall be adjusted annually to account for new lands disturbed by surface mining operations, inflation, and reclamation of lands accomplished in accordance with the approved reclamation plan.

(4) The financial assurances shall be made payable to the lead agency and the State Geologist. However, if a surface mining operation has received approval of its financial assurances from a public agency other than the lead agency, the lead agency shall deem those financial assurances adequate for purposes of this section, or shall credit them toward fulfillment of the financial assurances required by this section, if they are made payable to the public agency, the lead agency, and the State Geologist and otherwise meet the requirements of this section. In any event, if a lead agency and one or more public agencies exercise jurisdiction over a surface mining operation, the total amount of financial assurances required by the lead agency and the public agencies for any one year shall not exceed that amount which is necessary to perform reclamation of lands remaining disturbed. For purposes of this paragraph, a "public agency" may include a federal agency.

(b) If the lead agency or the board, following a public hearing, determines that the operator is financially incapable of performing reclamation in accordance with its approved reclamation plan, or has abandoned its surface mining operation without commencing reclamation, either the lead agency or the State Geologist shall do all of the following:

(1) Notify the operator by personal service or certified mail that the lead agency or the State Geologist intends to take appropriate

action to forfeit the financial assurances and specify the reasons for so doing.

(2) Allow the operator 60 days to commence or cause the commencement of reclamation in accordance with its approved reclamation plan and require that reclamation be completed within the time limits specified in the approved reclamation plan or some other time period mutually agreed upon by the lead agency or the State Geologist and the operator.

(3) Proceed to take appropriate action to require forfeiture of the financial assurances if the operator does not substantially comply with paragraph (2).

(4) Use the proceeds from the forfeited financial assurances to conduct and complete reclamation in accordance with the approved reclamation plan. In no event shall the financial assurances be used for any other purpose. The operator is responsible for the costs of conducting and completing reclamation in accordance with the approved reclamation plan which are in excess of the proceeds from the forfeited financial assurances.

(c) Financial assurances shall no longer be required of a surface mining operation, and shall be released, upon written notification by the lead agency, which shall be forwarded to the operator and the State Geologist, that reclamation has been completed in accordance with the approved reclamation plan. If a mining operation is sold or ownership is transferred to another person, the existing financial assurances shall remain in force and shall not be released by the lead agency until new financial assurances are secured from the new owner and have been approved by the lead agency in accordance with Section 2770.

(d) The lead agency shall have primary responsibility to seek forfeiture of financial assurances and to reclaim mine sites under subdivision (b). However, in cases where the board is not the lead agency pursuant to Section 2774.4, the State Geologist may act to seek forfeiture of financial assurances and reclaim mine sites pursuant to subdivision (b) only if both of the following occurs:

(1) The financial incapability of the operator or the abandonment of the mining operation has come to the attention of the State Geologist.

(2) The lead agency has been notified in writing by the State Geologist of the financial incapability of the operator or the abandonment of the mining operation for at least 15 days, and has not taken appropriate measures to seek forfeiture of the financial assurances and reclaim the mine site; and one of the following has occurred:

(A) The lead agency has been notified in writing by the State Geologist that failure to take appropriate measures to seek forfeiture of the financial assurances or to reclaim the mine site shall result in actions being taken against the lead agency under Section 2774.4.

(B) The State Geologist determines that there is a violation which amounts to an imminent and substantial endangerment to the public

health, safety, or to the environment.

(C) The lead agency notifies the State Geologist in writing that its good faith attempts to seek forfeiture of the financial assurances have not been successful.

The State Geologist shall comply with subdivision (b) in seeking forfeiture of financial assurances and reclaiming mine sites.

(e) The board may adopt regulations specifying financial assurance mechanisms other than surety bonds, irrevocable letters of credit, and trust funds, which the board determines are reasonably available and adequate to ensure reclamation pursuant to this chapter, but these mechanisms may not include financial tests.

SEC. 5. Section 2774 of the Public Resources Code is amended to read:

2774. (a) Every lead agency shall adopt ordinances in accordance with state policy which establish procedures for the review and approval of reclamation plans and financial assurances and the issuance of a permit to conduct surface mining operations, except that any lead agency without an active surface mining operation in its jurisdiction may defer adopting an implementing ordinance until the filing of a permit application. The ordinances shall establish procedures requiring at least one public hearing and shall be periodically reviewed by the lead agency and revised, as necessary, in order to ensure that the ordinances continue to be in accordance with state policy.

(b) The lead agency shall conduct an inspection of a surface mining operation within six months of receipt by the lead agency of the surface mining operation's report submitted pursuant to Section 2207, solely to determine whether the surface mining operation is in compliance with this chapter. In no event shall a lead agency inspect a surface mining operation less than once in any calendar year. The lead agency may cause such an inspection to be conducted by a state-registered geologist, state-registered civil engineer, state-licensed landscape architect, or state-registered forester, who is experienced in land reclamation and who has not been employed by the mining operation in any capacity during the previous 12 months. All inspections shall be conducted using a form developed by the department and approved by the board. The operator shall be solely responsible for the reasonable cost of the inspection. The lead agency shall notify the State Geologist within 30 days of completion of the inspection that the inspection has been conducted. The notice shall contain a statement regarding the surface mine's compliance with this chapter, shall include a copy of the completed inspection form, and shall specify which aspects of the surface mining operations, if any, are inconsistent with this chapter. If the surface mining operation has a review of its reclamation plan, financial assurances, or an interim management plan pending under subdivision (b), (c), (d), or (h) of Section 2770, or an appeal pending before the board or lead agency governing body under subdivision (e) or (h) of Section 2770, the notice shall so indicate. The lead agency shall

forward to the operator a copy of the notice, a copy of the completed inspection form, and any supporting documentation, including, without limitation, any inspection report prepared by the geologist, civil engineer, landscape architect, or forester.

(c) Prior to approving a surface mining operation's reclamation plan, financial assurances, including existing financial assurances reviewed by the lead agency pursuant to subdivision (c) of Section 2770, or any amendments, the lead agency shall submit the plan, assurances, or amendments to the State Geologist for review. The lead agency shall certify to the State Geologist that the reclamation plan complies with the applicable requirements of Article 1 (commencing with Section 3500) of Chapter 8 of Division 2 of Title 14 of the California Code of Regulations, as in effect at the time the reclamation plan is submitted to the State Geologist for review.

(d) The State Geologist shall have 45 days to prepare written comments, if the State Geologist so chooses. The lead agency shall evaluate written comments received from the State Geologist during the 45-day comment period. The lead agency shall prepare a written response describing the disposition of the major issues raised. In particular, when the lead agency's position is at variance with the recommendations and objections raised in the State Geologist's comments, the written response shall address, in detail, why specific comments and suggestions were not accepted. Copies of any written comments received and responses prepared by the lead agency shall be forwarded to the operator.

(e) Lead agencies shall notify the State Geologist of the filing of an application for a permit to conduct surface mining operations within 30 days of such an application being filed with the lead agency. By July 1, 1991, each lead agency shall submit to the State Geologist for every active or idle mining operation within its jurisdiction, a copy of the mining permit required pursuant to Section 2774, and any conditions or amendments to those permits. By July 1 of each subsequent year, the lead agency shall submit to the State Geologist for each active or idle mining operation a copy of any permit or reclamation plan amendments, as applicable, or a statement that there have been no changes during the previous year. Failure to file with the State Geologist the information required under this section shall be cause for action under Section 2774.4.

SEC. 6. Section 2774.4 of the Public Resources Code is amended to read:

2774.4. (a) If the board finds that a lead agency either has (1) approved reclamation plans or financial assurances which are not consistent with this chapter, (2) failed to inspect or cause the inspection of surface mining operations as required by this chapter, (3) failed to seek forfeiture of financial assurances and to carry out reclamation of surface mining operations as required by this chapter, (4) failed to take appropriate enforcement actions as required by this chapter, (5) intentionally misrepresented the results of inspections required under this chapter, or (6) failed to submit information to

the department as required by this chapter, the board shall exercise any of the powers of that lead agency under this chapter, except for permitting authority.

(b) If, no sooner than three years after the board has taken action pursuant to subdivision (a), the board finds, after a public hearing, that a lead agency has corrected its deficiencies in implementing and enforcing this chapter, and the rules and regulations adopted pursuant to this chapter, the board shall restore to the lead agency the powers assumed by the board pursuant to subdivision (a).

(c) Before taking any action pursuant to subdivision (a), the board shall first notify the lead agency of the identified deficiencies, and allow the lead agency 45 days to correct the deficiencies to the satisfaction of the board. If the lead agency has not corrected the deficiencies to the satisfaction of the board within the 45-day period, the board shall hold a public hearing within the lead agency's area of jurisdiction, upon a 45-day written notice given to the public in at least one newspaper of general circulation within the city or county, and directly mailed to the lead agency and to all surface mining operators within the lead agency's jurisdiction who have submitted reports as required by Section 2207.

(d) Affected surface mining operators shall have the right, at the public hearing, to present oral and written evidence on the matter being considered. The board may, at the public hearing, place reasonable limits on the right of affected surface mining operators to question and solicit testimony.

(e) If, after conducting the public hearing required by subdivision (c), the board decides to take action pursuant to subdivision (a), the board shall, based on the record of the public hearing, adopt written findings which explain all of the following:

(1) The action to be taken by the board.

(2) Why the board decided to take the action.

(3) Why the action is authorized by, and meets the requirements of, subdivision (a).

In addition, the findings shall address the significant issues raised, or written evidence presented, by affected surface mining operators or the board. The transcript of testimony and exhibits, together with all papers and requests filed in the proceedings, shall constitute the exclusive record for decision by the board.

(f) The lead agency or affected surface mining operator who has presented oral or written evidence at the public hearing before the board pursuant to subdivision (d) may obtain review of the board's action taken pursuant to subdivision (a) by filing in the superior court a petition for writ of mandate within 30 days following the issuance of the board's decision. Section 1094.5 of the Code of Civil Procedure governs judicial proceedings pursuant to this subdivision, except that in every case the court shall exercise its independent judgment. If a petition for a writ of mandate is not filed within the time limits set by this subdivision, the board's action under subdivision (a) shall not be subject to review by any court or agency.

CHAPTER 846

An act to amend Sections 17706, 17717.5, 17717.7, 17722, 17724, 17725, 17729, 17740.2, 17742.3, 39005, 39006, 39007, and 39101 of, to add Sections 17741.1, 17741.2, and 39001 to, and to repeal Sections 39000, 39100, and 39158 of, the Education Code, relating to school facilities.

[Approved by Governor October 11, 1991. Filed with Secretary of State October 14, 1991]

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

SECTION 1. (a) The Legislature finds and declares the following:

(1) The school facilities construction requirements set forth in the Leroy F. Greene Lease-Purchase Law of 1976 (Chapter 22 (commencing with Section 17700) of Part 10 of the Education Code) are too lengthy, too complex, and overly controlled by the various state agencies involved in the review and approval process. As a result, school facilities are overcrowded due to delays in building additional facilities and the quality of education received by pupils suffers. Further, the construction costs are higher due to inflation driven cost increases during the period of delay. Moreover, the services of state and school district staff are diverted to deal with delays that arise in a long and complex application process.

(2) A streamlining of the approval process set forth in the Leroy F. Greene Lease-Purchase Law of 1976 (Chapter 22 (commencing with Section 17700) of Part 10 of the Education Code) is necessary to efficiently provide the children of the state with needed classrooms. The multiple steps currently required in the review process should be dramatically reduced by replacing state review with local self-certification combined with audits and credible sanctions for noncompliance by school districts. It is the intent of the Legislature that the State Allocation Board take the actions necessary to achieve that result.

(3) The school construction process should be streamlined further by increasing local authority over the approval of site acquisition and of plans and specifications for school facilities construction. It is the intent of the Legislature that the State Department of Education and the Department of General Services take the actions necessary to achieve that result.

(b) It is the intent of the Legislature that the streamlining process described in subdivision (a) be accomplished through this act and through subsequent legislation enacted in 1992.

SEC. 2. Section 17706 of the Education Code is amended to read:

17706. (a) The board shall not enter into any lease with respect to an application for replacing inadequate school facilities unless it first has investigated and made a finding, or the governing board of a self-certifying district, as applicable, first certifies that it has

investigated and made a finding, consistent with guidelines adopted by the board, that one or both of the following conditions exists:

(1) It would not be economical or good practice to rehabilitate those facilities.

(2) The school facilities are inadequate due to their susceptibility to repeated flooding. The board shall develop and adopt regulations that define inadequacy of school facilities on the basis of susceptibility to repeated flooding. The building area of any facility found to be inadequate pursuant to this subdivision shall be excluded, for the purposes of any application for the replacement of any facility, from the calculation under this chapter of the area of adequate school construction existing in the applicant school district.

(b) The self-certifying district shall maintain documentation of each investigation and finding it conducts pursuant to subdivision (a) as may be required by the board, and the investigation and finding shall be subject to subsequent audit as the board may direct.

(c) For purposes of this chapter, a "self-certifying district" as to any project to be funded under this chapter, is an applicant district that provides 50 percent or more of the cost of the project from funding sources other than any state program administered by the board.

SEC. 3. Section 17717.5 of the Education Code is amended to read:

17717.5. (a) The board may approve, in whole or in part, an application submitted by a school district under Section 17717 or 17720 in an amount not exceeding the amount applied for as the board may deem appropriate.

(b) The board may, upon approval of the application, in whole or in part, and subsequently from time to time, make apportionments of project funding not exceeding in the aggregate the total amount determined by the board under subdivision (a) for the portion or portions of the project for which the board determines the district is ready to proceed. Subsequent to the board's approval of a project, any requirement imposed by the board that the compliance of the project with building cost or area standards and related guidelines adopted by the board be established as a condition of the apportionment of funds under this chapter shall be satisfied, as to a project for a self-certifying district, by the certification by the district of that compliance. In addition, the board shall not require that estimates of average daily attendance be updated as to that project more often than once every 12 months subsequent to the board's approval of the project. The self-certifying district shall maintain documentation of the compliance certified pursuant to this subdivision as may be required by the board, and that compliance shall be subject to subsequent audit as the board may direct.

(c) Whenever a district files an application, the board shall require the district to submit to the board and the State Department of Education a five-year plan for construction and rehabilitation of school facilities, and to obtain the written approval of the

department that the plan complies with standards that are established by the department for this purpose to ensure that the applicant district has adequately anticipated its school facilities needs and identified funding sources as necessary to meet those needs. The plan may be adjusted to reflect adjusted growth targets.

(d) The board shall not approve any application under this chapter after January 1, 1990, unless accompanied by a study examining the feasibility of implementing in the district a year-round multitrack educational program that is designed to increase pupil capacity in the district or in overcrowded high school attendance areas by at least 20 percent.

(e) The board may waive subdivision (d) or the requirements of Section 17717.7, or both, if a school district demonstrates that these requirements will result in a particular educational or financial hardship to the district. Further, the board shall waive subdivision (d), if it finds that there is clear hardship to a district due to declining enrollment or no growth.

SEC. 4. Section 17717.7 of the Education Code is amended to read:

17717.7. (a) Notwithstanding any other provision of this chapter, priority for the approval of project funding for new construction under this chapter, shall be as follows:

(1) First priority for construction funds shall be given to school districts with a substantial enrollment in multitrack year-round schools requesting state funding for 50 percent of the cost of a project that would be constructed to operate on a multitrack year-round basis.

(2) Second priority shall be for school districts with a substantial enrollment in multitrack year-round schools requesting state funding for the entire cost of a project that would be constructed to operate on a multitrack year-round basis.

(3) Third priority shall be for school districts without a substantial enrollment in multitrack year-round schools requesting state funding for 50 percent of the cost of a project to operate on a multitrack year-round basis.

(4) Fourth priority shall be for school districts without a substantial enrollment in multitrack year-round schools requesting state funding for the entire cost of a project that would be constructed to operate on a multitrack year-round basis.

(5) Fifth priority shall be for school districts with a substantial enrollment in multitrack year-round schools requesting state funding for 50 percent of the cost of a project that would not operate on a multitrack year-round basis.

(6) Sixth priority shall be for school districts with a substantial enrollment in multitrack year-round schools requesting state funding for the entire cost of a project that would not operate on a multitrack year-round basis.

(b) The board shall not restrict the availability of funding for construction of multitrack year-round schools, from any funding

source available to the State School Building Lease-Purchase Fund, but shall make approval of project funding for those projects the first priority in accordance with this section.

(c) "Substantial enrollment," for the purposes of this section, means enrollment of at least 30 percent of district pupils in kindergarten and any of the grades 1 to 6, inclusive, or 40 percent of pupils in kindergarten and any of grades 1 to 12, inclusive, in the high school attendance area for which the school district is applying for new facilities. The calculation set forth in this subdivision, as to a self-certifying district, shall be made by the district, in accordance with any standards governing that calculation that are adopted by the board. The calculation shall be certified by the district to the board and used by the board for the purposes of this section. The self-certifying district shall maintain documentation of the calculation as may be required by the board, and the calculation shall be subject to subsequent audit as the board may direct. If a self-certifying district is found by the board to have materially misrepresented its pupil enrollment pursuant to this subdivision, the board may impose either or both of the penalties set forth in paragraphs (1) and (2) of subdivision (c) of Section 17741.1, in accordance with that section.

(d) Notwithstanding any other provision of this section, the State Allocation Board may continue to implement any year-round school priority provisions for hardships adopted prior to September 1, 1990.

SEC. 5. Section 17722 of the Education Code is amended to read:

17722. Except as provided in Section 17741, the board shall not approve any new school facilities for any applicant school district or county superintendent of schools until it first has made a determination that the applicant will utilize all existing facilities and sites to the extent economically and practically feasible. The board may also require the applicant to explore cooperative efforts with adjacent districts or, in the case of county superintendents of schools, with adjacent county superintendents of schools, in order that all existing or planned facilities in the general area of need shall be utilized.

SEC. 6. Section 17724 of the Education Code is amended to read:

17724. (a) The board shall not authorize the selection of any school site, or a contract for the construction of any new school building, or for any addition to, or alteration of, any existing building, for lease-purchase to any school district, unless the applicant district has obtained the written approval of the State Department of Education that the site selection, and the building plans and specifications, comply with the standards adopted by the department pursuant to subdivisions (b) and (c), respectively, of Section 39101.

(b) A self-certifying district shall comply with subdivision (a) by certifying to the State Department of Education and the board that the site selection, and the building plans and specifications, comply with the standards adopted by the department pursuant to

subdivisions (b) and (c), respectively, of Section 39101. The self-certifying district shall maintain documentation of the determinations made pursuant to this subdivision as required by the board. Those determinations shall be subject to subsequent audit by the State Department of Education in accordance with this section.

(c) The State Department of Education shall conduct random audits of the information certified by self-certifying districts pursuant to subdivision (b), using generally accepted auditing principles, at any time to ensure compliance with the law.

(d) If any information certified by a self-certifying district pursuant to subdivision (b) is found by the department to contain any material inaccuracy, the department shall so notify the board. The board shall thereupon impose both of the following penalties:

(1) Pursuant to a repayment schedule approved by the board of no more than five years, the district shall repay to the board, for deposit in the State School Building Lease-Purchase Fund, an amount equal to the amount of project funding allocated under this chapter to acquire any site that was selected in material violation of the standards adopted by the department pursuant to subdivision (b) of Section 39101, together with interest at the rate paid on moneys in the Pooled Money Investment Account or at the highest rate of interest for the most recent issue of state general obligation bonds as established pursuant to Chapter 4 (commencing with Section 16720) of Part 3 of Division 4 of Title 2 of the Government Code, whichever is greater. The amount of any repayment owing under this paragraph for any fiscal year, which is not repaid otherwise by the district, shall be withheld by the board from any project funding that otherwise would be allocated to that district under this chapter in that fiscal year. As to any repayment obligation remaining for that fiscal year, the board shall notify the Superintendent of Public Instruction, who shall withhold the amount of that remaining obligation from the apportionments to be made to the district from the State School Fund in that fiscal year.

(2) The board shall prohibit the district from exercising the self-certifying authority under subdivision (b) under any subsequent applications for project funding for a period of up to five years following the date of the finding of a material inaccuracy, or until the district's repayment of the entire amount owing under paragraph (1), whichever occurs later.

(e) Any school district against which the board imposed the penalties under paragraphs (1) and (2) of subdivision (d) may submit for binding determination by an arbitrator the issue of whether the penalties imposed are disproportionate to the inaccuracy certified by the district. Except as otherwise provided by this chapter, the procedure governing the arbitration shall be as set forth in Title 9 (commencing with Section 1280) of Part 3 of the Code of Civil Procedure.

(f) It is the intent of the Legislature that audits as described in this section not interfere with the application and construction process

under this chapter unless one or more violations are discovered.

SEC. 7. Section 17725 of the Education Code is amended to read:

17725. (a) The board shall not authorize a contract for the construction of any new school, or for the addition to, or reconstruction or alteration of, any existing building, for lease-purchase to any school district unless the applicant district has submitted plans therefor to the Department of General Services and obtained the written approval of the department pursuant to Article 3 (commencing with Section 39140) of Chapter 1 of Part 23.

(b) The board, or the self-certifying district, as applicable, shall certify the compliance of a project with Sections 39002, 39002.5, and 39003, with Division 13 (commencing with Section 21000) of the Public Resources Code, and with any other provision of law that applies to that project, but may require documentation of compliance only as to requirements that are applicable under this chapter. Notwithstanding any other provision of law, for purposes of Division 13 (commencing with Section 21000) of the Public Resources Code, the applicant district shall be deemed to be the "lead agency" with regard to any project funded for that district under this chapter.

SEC. 8. Section 17729 of the Education Code is amended to read:

17729. (a) The board shall authorize the applicant school district to act as its agent in the performance of acts specifically approved by the board and all acts required pursuant to Article 3 (commencing with Section 39140) of Chapter 1 of Part 23 of Division 3. That authorization shall include, but is not limited to, the selection of school sites, the securing of appraisals, the contracting for architectural services, the advertisement for construction bids and the entering into of contracts therefor and the purchase of furniture and equipment.

(b) If, pursuant to the authority granted under subdivision (a), a self-certifying district submits to the board two or more independent appraisals and certifies to the board that the appraisals were performed by appraisers licensed or certified in accordance with Part 3 (commencing with Section 11300) of Division 4 of the Business and Professions Code and were obtained in accordance with standards and procedures imposed by the board for that purpose, the district shall not be required to document its compliance with those standards and procedures except as specified in Section 17741.2. In addition, the board shall use any of those appraisals, including an appraisal that is not the highest bid appraisal, for the purposes of this section, except that the board may substitute, for the results of those appraisals, the results of one or more independent appraisals, which may include an appraisal performed by the Department of General Services, obtained by the board for that purpose.

(c) If, pursuant to the authority granted under subdivision (a), any bid reported to the board by a self-certifying district as the lowest responsible bid for a construction contract does not exceed the cost limit established by the board for that purpose, and the district

certifies to the board that the bid was obtained in accordance with standards and procedures imposed by the board for that purpose, the district shall not be required to document its compliance with those standards and procedures except as specified in Section 17741.2.

SEC. 9. Section 17740.2 of the Education Code is amended to read:

17740.2. Where 75 percent or more of the total cost of a project approved under this chapter, not including the portion of the project cost funded by the district matching share required under Section 17705.5, is to be funded by the applicant district from sources other than any state program administered by the board, the area of the allowable new building construction for that project, and the amount of the building cost allowed for that project under this chapter, shall each be increased by 5 percent, plus 1 percent for each 1 percent by which that local contribution exceeds 75 percent.

SEC. 10. Section 17741.1 is added to the Education Code, to read:

17741.1. (a) Notwithstanding any other provision of this chapter, the following determinations shall be made by a self-certifying district, in the manner specified in this chapter and in accordance with the standards governing those determinations that are adopted by the board, for the purpose of calculating the district's eligibility for project funding under this chapter:

(1) The total allowable building area for which the district is eligible for project funding under this chapter.

(2) The district's area of existing adequate school construction, including, but not limited to, the conducting of field inspections for this purpose.

If requested by the applicant district, the board shall provide assistance to the district in preparing the necessary documents for self-certification pursuant to this chapter.

(b) The area determinations made by a self-certifying district pursuant to subdivision (a) shall be certified by the district in its application for project funding and shall be used by the board as the basis for project funding eligibility, except to the extent of any information that the board finds is demonstrated, pursuant to the information certified and any other documentation available to the board from prior project funding applications for that district, to be materially inaccurate, regardless of whether the inaccuracy was intended. No later than 30 calendar days after receipt of the determinations certified pursuant to subdivision (a), the board shall notify the district of any inaccuracies identified under this subdivision.

(c) Each self-certifying district shall maintain documentation of the determinations described in subdivision (a) as required by the board. Those determinations shall be subject to subsequent audit as the board may direct.

(d) All estimates of average daily attendance for a self-certifying district for the purposes of this article shall be made by the district in accordance with the standards governing those estimates that are

adopted by the board. Each determination made by a self-certifying district pursuant to this subdivision shall be reviewed for accuracy by the board or by the county office of education in the county in which the district is located. In the event that the review is performed by the board, that review shall be completed no later than 45 calendar days subsequent to the board's receipt from the district of all documentation necessary for that purpose.

SEC. 10.5. Section 17741.2 is added to the Education Code, to read:

17741.2. (a) The State Allocation Board shall conduct random audits of the information certified by self-certifying districts pursuant to this chapter, except as to any determinations that are made under subdivision (d) of Section 17741.1 or that are subject to audit by the State Department of Education pursuant to Section 17724, using generally accepted auditing principles, at any time to ensure compliance with the law.

(b) If any information submitted by a self-certifying district in its certification of funding eligibility for any project is found by the board to contain any material inaccuracy, any building area constructed as a result, in excess of the building area to which the district was entitled for purposes of that project, shall be included in the calculation of the area of adequate school construction for the purposes of all subsequent project applications by the district under this chapter. In addition, the board shall impose both of the following penalties:

(1) Pursuant to a repayment schedule approved by the board, the district shall repay to the board of no more than five years, for deposit in the State School Building Lease-Purchase Fund, an amount equal to the amount of project funding allocated under this chapter to construct that excess building area, together with interest at the rate paid on moneys in the Pooled Money Investment Account or at the highest rate of interest for the most recent issue of state general obligation bonds as established pursuant to Chapter 4 (commencing with Section 16720) of Part 3 of Division 4 of Title 2 of the Government Code, whichever is greater. The amount of any repayment owing under this paragraph for any fiscal year, which is not repaid otherwise by the district, shall be withheld by the board from any project funding that otherwise would be allocated to that district under this chapter in that fiscal year. As to any repayment obligation remaining for that fiscal year, the board shall notify the Superintendent of Public Instruction, who shall withhold the amount of that remaining obligation from the apportionments to be made to the district from the State School Fund in that fiscal year.

(2) The information that otherwise may be certified under this chapter by a self-certifying district shall be made by the board under any subsequent applications for project funding, rather than by the applicant district, for a period of up to five years following the date of the finding of a material inaccuracy, or until the district's repayment of the entire amount owing under paragraph (1),

whichever occurs later.

(c) Any school district against which the board imposes the penalties under paragraphs (1) and (2) of subdivision (b) may submit for binding determination by an arbitrator the issue of whether the penalties imposed are disproportionate to the inaccuracy certified by the district. Except as otherwise provided by this chapter, the procedure governing the arbitration shall be as set forth in Title 9 (commencing with Section 1280) of Part 3 of the Code of Civil Procedure.

(d) It is the intent of the Legislature that audits as described in this section not interfere with the application and construction process under this chapter unless one or more violations are discovered.

SEC. 11. Section 17742.3 of the Education Code is amended to read:

17742.3. In determining its area of adequate school construction, the board, by a unanimous vote of all members present, or a self-certifying district, as applicable, may exclude the square footage of any facility that it determines to be no longer usable for school purposes, in accordance with standards adopted by the board for this purpose. The self-certifying district shall maintain documentation of the calculation certified pursuant to this subdivision as may be required by the board, and the calculation shall be subject to subsequent audit as the board may direct.

SEC. 11.5. Section 39000 of the Education Code is repealed.

SEC. 12. Section 39001 is added to the Education Code, to read:

39001. Prior to commencing the acquisition of real property for a new school site or an addition to an existing school site, the governing board of a school district shall evaluate the property at a public hearing using the site selection standards established by the State Department of Education pursuant to subdivision (b) of Section 39101. The governing board may direct the district's advisory committee established pursuant to Section 39296 to evaluate the property pursuant to those site selection standards and to report its findings to the governing board at the public hearing.

SEC. 13. Section 39005 of the Education Code is amended to read:

39005. (a) The requirements set forth in this section are designed to promote the safety of pupils, comprehensive community planning, and greater educational usefulness of school sites.

(b) Before acquiring title to property for a new school site, or for an addition to a present site, as to any site that is within two miles, measured by air line, of any point on an airport runway or a potential runway included in an airport master plan that is nearest the site, the governing board of each school district, including any district governed by a city board of education, shall give the Department of Transportation written notice of the proposed acquisition and shall submit any information required by the department. If the Department of Transportation is no longer in operation, the school district governing board shall, in lieu of notifying the Department of

Transportation, notify the United States Department of Transportation or any other appropriate agency, in writing, of the proposed acquisition for the purpose of obtaining from the department or other agency any information or assistance that it may desire to give.

The Department of Transportation shall investigate the proposed site and, within 30 working days after receipt of the notice, shall submit to the governing board a written report and its recommendations concerning acquisition of the site. The governing board shall not acquire title to the property until the report of the Department of Transportation has been received. If the report does not favor the acquisition of the property for a school site or an addition to a present school site, the governing board shall not acquire title to the property until 30 days after the department's report is received and until the department's report has been read at a public hearing duly called after 10 days' notice published once in a newspaper of general circulation within the school district or, if there is no such newspaper, in a newspaper of general circulation within the county in which the property is located.

SEC. 14. Section 39006 of the Education Code is amended to read:

39006. Notwithstanding Section 39005, immediately after receiving notice of a proposed acquisition of property that is within two miles, measured by air line, of that point on an airport boundary that is nearest the site, the Department of Transportation shall make an investigation and report to the school district governing board within 25 days after receipt of the notice. As part of the investigation, the Department of Transportation shall give notice thereof to the owner and operator of the airport who shall be granted the opportunity to comment upon the proposed school site.

Notwithstanding Section 39005, if the report of the Department of Transportation required by that section does not favor the acquisition of the property for a school site, or an addition to a present school site, the governing body shall not acquire title to the property until 30 days after the department's report is received and until the department's report has been read at a public hearing duly called after 10 days' notice by publication in a newspaper of general circulation within the school district or, if there is no such newspaper, in a newspaper of general circulation within the county in which the property is located.

SEC. 15. Section 39007 of the Education Code is amended to read:

39007. (a) Except as provided in subdivision (b), if the Department of Transportation, in its report submitted to a school district governing board pursuant to Section 39005 or 39006, does not favor acquisition of a proposed site that is within two miles of the center line of an active runway, no state funds, school district funds, or funds of the county in which the district lies shall be granted, apportioned, allowed, or expended, in connection with that site, for school site acquisition or school building construction, or for expansion of existing sites and buildings.

(b) This section does not apply to sites acquired prior to January 1, 1966, nor to any additions or extensions to those sites.

(c) If the recommendation of the Department of Transportation is unfavorable, the recommendation shall not be overruled without the express approval of the State Allocation Board.

SEC. 16. Section 39100 of the Education Code is repealed.

SEC. 17. Section 39101 of the Education Code is amended to read:

39101. The State Department of Education shall:

(a) Upon the request of the governing board of any school district, advise the governing board on the acquisition of new school sites and, after a review of available plots, give the governing board in writing a list of the recommended locations in the order of their merit, considering especially the matters of educational merit, safety, reduction of traffic hazards, and conformity to the land use element in the general plan of the city, county, or city and county having jurisdiction. The governing board may purchase a site deemed unsuitable for school purposes by the State Department of Education only after reviewing the department's report on proposed sites at a public hearing. The department shall charge the school district a reasonable fee for each school site reviewed not to exceed the actual administrative costs incurred for that purpose.

(b) Develop standards for use by a school district in the selection of school sites, in accordance with the objectives set forth in subdivision (a). The department shall investigate complaints of noncompliance with site selection standards and shall notify the governing board of the results of the investigation. If that notification is received prior to the acquisition of the site, the governing board shall discuss the findings of the investigation in a public hearing.

(c) Establish standards for use by school districts to ensure that the design and construction of school facilities are educationally appropriate and promote school safety.

(d) Upon the request of the governing board of any school district, review plans and specifications for school buildings in the district. The department shall charge governing boards of school districts, for the review of plans and specifications, a reasonable fee not to exceed the actual administrative costs incurred for that purpose.

(e) Upon the request of the governing board of any school district, make a survey of the building needs of the district, advise the governing board concerning the building needs, suggest plans for financing a building program to meet the needs. The department shall charge the district, for the cost of the survey, a reasonable fee not to exceed the actual administrative costs incurred for that purpose.

(f) Provide information relating to the impact or potential impact upon any school site of hazardous substances, solid waste, safety, hazardous air emissions, and other information as the department may deem appropriate.

SEC. 18. Section 39158 of the Education Code is repealed.

SEC. 19. (a) The State Allocation Board shall cause standards to

be developed, and appropriate forms to be revised or established, to assist school districts to make the determinations and certifications described in Chapter 22 (commencing with Section 17700) of Part 10 of the Education Code. No later than November 1, 1992, the board shall distribute to each school district in this state copies of the standards and forms prepared pursuant to this section, together with detailed instructions, and training materials, to facilitate compliance with those standards and the use of those forms.

(b) It is the intent of the Legislature that the State Allocation Board consult with the Joint Committee on School Facilities in the development and implementation of standards, forms, instructions, and materials pursuant to subdivision (a).

SEC. 20. Nothing in this act shall be construed to affect in any manner the validity or enforceability of any action taken by the State Allocation Board in implementation of Article 1.5 (commencing with Section 10115) of Chapter 1 of Part 2 of Division 2 of the Public Contract Code.

CHAPTER 847

An act to amend Section 1547.1 of, and to add Chapter 1.5 (commencing with Section 1020) to Part 1 of, Division 2 of the Water Code, relating to water.

[Approved by Governor October 11, 1991. Filed with Secretary of State October 14, 1991]

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

SECTION 1. The Legislature makes all of the following findings and declarations regarding voluntary water transfers:

(a) Water transfers from areas of surplus water supplies to water deficient areas have been discouraged by the following factors:

(1) Challenges to the underlying water right when a transfer is proposed.

(2) Delays in processing water transfers deny the benefits of a transfer during a particular season.

(3) Processing costs of short-term water transfers are high compared to the benefits.

(4) Third-party economic and social impacts in the area from which water is transferred.

(b) New and innovative methods are needed to encourage water transfers and to fully utilize existing supplies of water.

SEC. 2. The Legislature makes all of the following findings and declarations regarding voluntary water leases:

(a) The lease of water to areas of the state with water deficiencies shall be encouraged and assisted by all state agencies.

(b) Water leases will aid water deficient areas during droughts

and at other times by replenishing local and regional water supplies.

(c) Water leases protect areas of origin by preserving water rights for the future needs of these areas.

(d) Water leases will more fully utilize existing water supplies through conservation.

(e) Water leasing will reduce the time and cost of processing short-term water transfers.

(f) Water leasing will encourage water transfers by separating water transfer issues from challenges to the underlying water right.

(g) Water leasing will enhance fish and wildlife values by increasing instream flows below the point of diversion of the lessor and by increasing delta outflow in the Sacramento-San Joaquin Delta.

(h) Third-party economic and social impacts of water transfers will be minimized if the amount of water leased is limited to 25 percent of the water available to a district or individual water right holder.

SEC. 3. Chapter 1.5 (commencing with Section 1020) is added to Part 1 of Division 2 of the Water Code, to read:

CHAPTER 1.5. WATER LEASES

1020. Water may be leased for a period not to exceed five years to assist water conservation efforts pursuant to the terms and conditions of this chapter. The terms and conditions of this chapter are not applicable to water leases or transfers governed by other provisions of law.

1021. (a) The water subject to a water lease agreement shall be water that is subject to a water right of the lessor. The amount of water leased shall not exceed 25 percent of the water that would have been applied or stored by the lessor in the absence of the lease agreement in any given hydrological year.

(b) Each lease agreement shall include enforceable terms which will ensure that the water lease will not injure any legal user of water and will not unreasonably affect fish, wildlife, or other instream beneficial uses.

(c) This chapter applies only to surface water appropriated pursuant to the Water Commission Act (Chapter 586 of the Statutes of 1913, as amended) or this code, or to water appropriated prior to December 19, 1914.

1022. If the water subject to the lease is held by a water district or a water company, hereafter collectively referred to as the district, the following provisions apply:

(a) The governing body of the district may, by a resolution adopted and entered in its minutes, determine that the district should lease water pursuant to this chapter, or, if otherwise required by law, determine that an election should be held to lease water pursuant to this chapter. The district shall administer any water lease and determine whether water is in excess of the needs of the district

and is available for a lease.

(b) Any water lease administered by the district shall include provisions to achieve all of the following:

(1) Establish a schedule for district water users to provide written notice of the intention to participate in a water lease.

(2) Establish a minimum price for the water available for leasing to maintain the financial integrity of the district and enter into leases for that water at market values at or above the minimum price.

(3) Annually distribute the net monetary proceeds to water users in the district who have participated in the water leases, according to district water allocation policies, after first deducting district costs. These costs include, but are not limited to, the cost of the water, whether or not water is delivered, the costs of conveyance, distribution and development facilities, lease administration, and other appropriate district costs apportioned to water users in the district who forgo the use of district water to participate in the water lease.

1024. (a) Nothing in this chapter authorizes the sale of any water right or the modification of any water right or contract.

(b) No right in any water, water contract, or water right shall be acquired by a use permitted under this chapter.

(c) (1) When any person entitled to the use of water under an appropriative right fails to use all or any part of the water because of water conservation efforts and leases that conserved water under this chapter, any such cessation of, or reduction in, the use of the appropriated water that is leased is deemed equivalent to a reasonable beneficial use of water to the extent of that cessation of, or reduction in, use. No forfeiture of the appropriative right to the water conserved shall occur upon the lapse of the forfeiture period applicable to water appropriated pursuant to the Water Commission Act (Chapter 586 of the Statutes of 1913, as amended) or this code, or to water appropriated prior to December 19, 1914.

(2) The state board may require any lessor of water who seeks the benefit of this chapter to file periodic reports describing the extent and amount of the reduction in water use due to water conservation efforts. To the maximum extent possible, the reports shall be made a part of other reports required by the state board relating to the use of water. Failure to file the reports shall deprive the user of water of the benefits of this chapter.

(3) For purposes of this chapter, "water conservation" means the use of less water to accomplish the same purpose or purposes of use allowed under the existing appropriative right. Where water appropriated for irrigation purposes is not used by reason of land fallowing or crop rotation, the reduced usage shall be deemed water conservation for purposes of this section.

1024.5. This chapter does not limit any review of the lessee's use of the leased water.

1025. If the lessor or lessee is a water district, the water lessor shall file a notice with the state board of the water lease agreement and

include in the notice all of the following:

(a) A copy of the lease agreement.

(b) Any water permit or license number.

(c) A description of the environmental conditions in the lease, permit, and license which protect fish and wildlife.

(d) A statement of how the lease will assist water conservation efforts of the lessor.

(e) An agreement undertaken by the lessor and the lessee which specifies how the environmental protection terms and conditions in the permit, license, or lease, and the applicable conditions established pursuant to Section 1029 for the permit, license, or other water right, will be complied with for the duration of the lease.

1025.5. (a) If both the lessor and lessee are private parties, the lessor shall file an application with the state board for approval of the lease agreement and shall include in the application both of the following:

(1) The information and materials described in subdivisions (a) to (e), inclusive, of Section 1025.

(2) Other information which the state board determines is necessary to review the application.

(b) The state board, after providing notice and opportunity for a hearing, may approve the lease if, in the judgment of the state board, the lease would not operate to injure the legal users of water or unreasonably affect fish, wildlife, or other instream beneficial uses.

1025.7. Water leases pursuant to this chapter are not subject to Chapter 10 (commencing with Section 1700) or Chapter 10.5 (commencing with Section 1725) of Part 2.

1026. The lead agency shall not approve a water lease until 30 days after the state board provides written public notice, including notice by personal delivery or registered mail to legal users of water which may be affected by the lease, as identified by the state board, the Department of Fish and Game, and any party requesting special notice of water leases pursuant to this chapter. The water lessor shall pay a reasonable fee, in an amount determined by the state board, for the cost of providing the notice.

1027. (a) Any water lease agreement entered into pursuant to this chapter involving the transfer of water from the Sacramento-San Joaquin Delta shall provide outflow consistent with the carriage water requirements determined by the department to be necessary for the transfer of the water subject to the lease to maintain the water quality which would exist in the delta without the transfer undertaken in connection with the water lease.

(b) Any water lease agreement providing for the lease of water from a lessor north of the Sacramento/San Joaquin Delta to a lessee south of the Sacramento/San Joaquin Delta shall provide for an amount of water for delta salt water repulsion and environmental purposes as administratively prescribed by the state board in proportion to all similar requirements for delta exports.

1028. In any proceeding pursuant to Section 1029, the court shall

determine issues relating to the lease and the effects of the water transfer pursuant to the lease on the legal users of water and on fish and wildlife, but any request or petition to permanently change the water right which may be subject to the lease shall be heard in a separate proceeding.

1029. Division 13 (commencing with Section 21000) of the Public Resources Code applies to water lease agreements authorized by this chapter. For purposes of that division, the lessor is the lead agency, except that if the lessor is a private party and the lessee is a water district, the lessee is the lead agency. If both the lessor and the lessee are private parties, the state board is the lead agency.

1030. During the term of the water lease, the state board shall monitor the lease, as appropriate. The state board shall initiate proceedings, if appropriate, to enforce the terms and conditions of water leases, and permits and licenses or water use authority to ensure that the water lease does not operate to injure any legal user of the water or unreasonably affect fish, wildlife, or other instream beneficial uses.

SEC. 4. Section 1547.1 of the Water Code is amended to read:

1547.1. Every person filing a petition for permission to make a transfer of water or water rights pursuant to Section 386, 1010, 1011, or 1025.5 or Chapter 10.5 (commencing with Section 1725) for use outside of the basin in which the water originates shall pay to the board at the time of filing the petition a fee equal to 25 percent of the amount computed by using the schedules in Article 1 (commencing with Section 1525).

CHAPTER 848

An act to amend Sections 1569.23, 1569.615, and 1569.62 of, and to add Sections 1569.171, 1569.235, 1569.613, 1569.616, and 1569.617 to, the Health and Safety Code, relating to residential care facilities for the elderly, and making an appropriation therefor.

[Approved by Governor October 11, 1991 Filed with Secretary of State October 14, 1991]

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

SECTION 1. Section 1569.171 is added to the Health and Safety Code, immediately following Section 1569.17, to read:

1569.171. Prior to issuance to any person of a certificate of completion of the administrator certification program pursuant to Section 1569.616, the department shall secure from an appropriate law enforcement agency a criminal record to determine if the person has been convicted of a crime other than a minor traffic violation. Based upon the criminal record information received, the department shall take appropriate action as provided for in Section

1569.17.

SEC. 2. Section 1569.23 of the Health and Safety Code is amended to read:

1569.23. (a) As a requirement for licensure, the applicant shall demonstrate that he or she has successfully completed a certification program approved by the department.

(b) The certification program shall be for a minimum of 40 hours of classroom instruction and include a uniform core of knowledge which shall include all of the following:

(1) Law, regulations, policies, and procedural standards that impact the operations of residential care facilities for the elderly.

(2) Business operations.

(3) Management and supervision of staff.

(4) Psychosocial need of the elderly residents.

(5) Physical needs for elderly residents.

(6) Community and support services.

(7) Use, misuse, and interaction of drugs commonly used by the elderly.

(8) Resident admission, retention, and assessment procedures.

(c) Successful completion of the certification program shall be demonstrated by passing a written test and submitting a fee of one hundred dollars ($100) to the department for the issuance of a certificate of completion.

(d) The department shall establish by regulation the program content, the testing instrument, process for approving certification programs, and criteria to be used for authorizing individuals or organizations to conduct certification programs. These regulations shall be developed with the participation of provider organizations.

(e) This section shall apply to all applications for licensure unless the applicant provides evidence that he or she has a current license for another residential care facility for the elderly which was initially licensed prior to July 1, 1989, or has successfully completed an approved certification program within the prior five years.

(f) If the applicant is a firm, partnership, association, or corporation, the chief executive officer, or other person serving in a like capacity, or the designated administrator of the facility shall provide evidence of successfully completing an approved certification program.

SEC. 3. Section 1569.235 is added to the Health and Safety Code, to read:

1569.235. As a requirement for licensure, the applicant shall attend an orientation given by the department which outlines the applicable rules and regulations, and the scope and responsibility for operation of a residential care facility for the elderly.

SEC. 4. Section 1569.613 is added to the Health and Safety Code, to read:

1569.613. Any person who becomes an administrator of a residential care facility for the elderly on or after January 1, 1992, shall, at a minimum, comply with all of the following:

(a) Be at least 21 years of age.

(b) Provide documentation of having successfully completed a certification program approved by the department.

(c) Have a high school diploma or pass a general educational development test as described in Article 3 (commencing with Section 51420) of Chapter 3 of Part 28 of the Education Code.

(d) Obtain criminal record clearance as provided for in Sections 1569.17 and 1569.171.

SEC. 5. Section 1569.615 of the Health and Safety Code is amended to read:

1569.615. (a) Notwithstanding Section 1569.62, and until legislation is enacted establishing an administrator certification program, an administrator of a residential care facility, if other than the licensee, shall be required to successfully complete the certification program provided for pursuant to Section 1569.23. In those cases where the individual is both the licensee and the designated administrator of a facility, and the individual is exempt from the requirements of Section 1569.23 as a licensee, the individual shall comply with the requirements of this subdivision as the designated administrator unless he or she qualifies for the exemption provided for in subdivision (b).

(b) An individual designated as the administrator of a residential care facility for the elderly who holds a valid license as a nursing home administrator issued in accordance with Chapter 8.5 (commencing with Section 3901) of Division 2 of the Business and Professions Code shall be exempt from this section.

(c) Individuals designated as the administrator of a residential care facility for the elderly on or after January 1, 1991, shall comply with this section by July 1, 1991. Failure to comply with this section shall constitute cause for revocation of the license.

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

(e) This section shall be operative only until regulations are adopted implementing the administrator certification program pursuant to Section 1569.616.

SEC. 6. Section 1569.616 is added to the Health and Safety Code, to read:

1569.616. (a) (1) An administrator of a residential care facility for the elderly shall be required to successfully complete a department approved certification program prior to employment.

(2) In those cases where the individual is both the licensee and the administrator of a facility, or a licensed nursing home administrator, the individual shall comply with the requirements of this section unless he or she qualifies for one of the exemptions provided for in subdivision (b).

(3) Failure to comply with this section shall constitute cause for revocation of the license of the facility where the individual is functioning as the administrator.

(b) Individuals seeking exemptions under paragraph (2) of subdivision (a) shall meet the following criteria and fulfill the

required portions of the certification program, as the case may be:

(1) An individual designated as the administrator of a residential care facility for the elderly who holds a valid license as a nursing home administrator issued in accordance with Chapter 8.5 (commencing with Section 3901) of Division 2 of the Business and Professions Code shall be required to complete the areas in the uniform core of knowledge required by this section which pertains to the law, regulations, policies, and procedural standards that impact the operations of residential care facilities for the elderly, the use, misuse, and interaction of medication commonly used by the elderly in a residential setting, and resident admission, retention, and assessment procedures, equal to 12 hours of classroom instruction. An individual meeting the requirements of this paragraph shall not be required to take a written test.

(2) In those cases where the individual was both the licensee and administrator on or before July 1, 1991, the individual will be required to complete all the areas specified for the certification program but shall not be required to take the written test required by this section. Those individuals exempted from the written test shall be issued a conditional certification which is valid only as being the administrator of the facility for which the exemption was granted.

(A) As a condition to becoming an administrator of another facility the individual shall be required to pass the written test provided for in this section.

(B) As a condition to applying for a new facility license, the individual shall be required to pass the written test provided for in Section 1569.23.

(c) (1) The administrator certification program shall require a minimum of 40 hours of classroom instruction that provides training on a uniform core of knowledge in each of the following areas:

(A) Laws, regulations, and policies and procedural standards that impact the operations of residential care facilities for the elderly.

(B) Business operations.

(C) Management and supervision of staff.

(D) Psychosocial needs of the elderly.

(E) Community and support services.

(F) Physical needs for elderly persons.

(G) Use, misuse, and interaction of medication commonly used by the elderly.

(H) Resident admission, retention, and assessment procedures.

(2) Successful completion of the administrator certification program shall be demonstrated by passing a written test administered by the department.

(d) The department shall issue a certificate upon receipt of all of the following:

(1) A certificate of completion of the administrator training required pursuant to this chapter.

(2) The fee required for issuance of the certificate. A fee of one

hundred dollars ($100) shall be charged by the department to cover the costs for the issuance of a certificate.

(3) Documentation of passing the written test, unless exempt from the written test pursuant to subdivision (b).

(4) Submission of fingerprints. The department and the Department of Justice shall expedite the criminal record clearance for holders of certificates.

(e) It shall be unlawful for any person not certified under this section to hold himself or herself out as a certified administrator of a residential care facility for the elderly. Any person willfully making any false representation as being a certified administrator is guilty of a misdemeanor.

(f) (1) Certificates issued under this section shall be renewed every two years and renewal shall be conditional upon the certificate holder submitting documentation of completion of 40 hours of continuing education related to the core of knowledge specified in paragraph (1) of subdivision (c).

(2) Every administrator of a residential care facility for the elderly is required to complete the continuing education requirements of this subdivision whether he or she is certified according to subdivision (a) or (b).

(3) Certificates issued under this section shall expire on the certificate holder's birthday. The department may send a renewal notice to the certificate holder 90 days prior to the expiration date of the certificate. If the certificate is not renewed prior to its expiration date, reinstatement shall only be permitted after the certificate holder has paid a delinquency fee equal to three times the renewal fee and has provided evidence of completion of the continuing education required.

(4) To renew a certificate, the certificate holder shall, on or before the certificate expiration date, request renewal by submitting to the department documentation of completion of the required continuing education courses and pay the renewal fee of one hundred dollars ($100), irrespective of receipt of the department's notification of the renewal. A renewal request postmarked on or before the expiration of the certificate is proof of compliance with this paragraph.

(5) A suspended or revoked certificate is subject to expiration as provided for in this section. If reinstatement of the certificate is approved by the department, the certificate holder, as a condition precedent to reinstatement, shall pay a fee in an amount equal to the renewal fee, plus the delinquency fee, if any, accrued at the time of its revocation or suspension.

(6) A certificate which is not renewed within four years after its expiration shall not be renewed, restored, reissued, or reinstated except upon completion of a certification program, passing any test that may be required of an applicant for a new certificate at that time, and paying the appropriate fees provided for in this section.

(g) (1) The department may revoke a certificate issued under

this section for any of the following:

(A) Procuring a certificate by fraud or misrepresentation.

(B) Knowingly making or giving any false statement or information in conjunction with the application for issuance of a certificate.

(C) Criminal conviction unless an exemption is granted pursuant to Section 1569.17.

(h) The certificate shall be considered forfeited under the following conditions:

(1) The administrator has had a license revoked, suspended, or denied as authorized under Section 1569.50.

(2) The administrator has been denied employment, residence, or presence in a facility based on action resulting from an administrative hearing pursuant to Section 1569.58.

(i) (1) The department shall establish, by regulation, the program content, the testing instrument, the process for approving certification programs, and criteria to be used in authorizing individuals, organizations, or educational institutions to conduct certification programs and continuing education courses. These regulations shall be developed in consultation with provider organizations, and shall be made available at least six months prior to the deadline required for certification.

(2) The department shall prepare and maintain an updated list of approved training vendors.

(3) The department may inspect training programs and continuing education courses to determine if content and teaching methods comply with regulations. If the department determines that any vendor is not complying with the intent of this section, the department shall take appropriate action to bring the program into compliance, which may include removing the vendor from the approved list.

(4) The department shall establish reasonable procedures and timeframes not to exceed 30 days for the approval of vendor training programs.

(5) The department may charge a reasonable fee, not to exceed one hundred fifty dollars ($150) every two years to certification program vendors for review and approval of the initial 40-hour training program pursuant to subdivision (c). The department may also charge the vendor a fee not to exceed one hundred dollars ($100) every two years for the review and approval of the continuing education courses needed for recertification pursuant to this subdivision.

(j) This section shall be operative upon regulations being adopted by the department to implement the administrator certification program as provided for in this section.

SEC. 7. Section 1569.617 is added to the Health and Safety Code, to read:

1569.617. (a) There is hereby created in the State Treasury, the Residential Care Facility for the Elderly Fund from which moneys,

upon appropriation of the Legislature, shall be expended by the department for the purpose of administering this article, including the administrator certification program. The sum of one hundred fifty thousand dollars ($150,000) is hereby transferred from the General Fund to this fund and is hereby appropriated from the fund for expenditure in the 1991–92 fiscal year.

(b) The fund shall consist of specific appropriations that the Legislature sets aside for use by the fund and all fees, penalties, and fines collected pursuant to this article.

(c) From the fund, over a three-year period, the department shall repay to the General Fund one hundred fifty thousand dollars ($150,000) plus interest earned on this amount at the rate earned by the Pooled Money Investment Account. Repayments made pursuant to this section shall be made from those fees paid pursuant to Section 1569.616 in the implementation of the administrator certification program.

SEC. 8. Section 1569.62 of the Health and Safety Code is amended to read:

1569.62. (a) The director shall ensure that licensees, administrators, and staffs of residential care facilities for the elderly have appropriate training to provide the care and services for which a license or certificate is issued.

(b) The department shall develop jointly with the Department of Aging, with input from provider organizations, requirements for a uniform core of knowledge within the required 20 hours of continuing education for administrators, and their designated substitutes, and for recertification of administrators of residential care facilities for the elderly. This knowledge base shall include, as a minimum, basic understanding of the psychosocial and physical care needs of elderly persons and administration. The department shall develop jointly with the Department of Aging, with input from provider organizations, a uniform resident assessment tool to be used by all residential care facilities for the elderly. The assessment tool shall, in lay terms, help to identify resident needs for service and assistance with activities of daily living.

The departments shall develop a mandatory training program on the utilization of the assessment tool to be given to administrators and their designated substitutes.

SEC. 9. Any regulations required to be adopted by the department pursuant to this act shall be adopted as emergency regulations on or before March 1, 1992, in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, except that for the purpose of adopting emergency regulations, any regulations adopted pursuant to this chapter are hereby deemed to be necessary for the immediate preservation of the public peace, health and safety or general welfare, and no additional findings to that effect shall be required.

SEC. 10. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the

only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 849

An act to add Chapter 3.5 (commencing with Section 42160) to Part 3 of Division 30 of the Public Resources Code, relating to solid waste.

[Approved by Governor October 11, 1991. Filed with Secretary of State October 14, 1991]

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

SECTION 1. The Legislature finds and declares that the disposal of major appliances and other large metallic discards in solid waste landfills needlessly uses scarce landfill capacity. The Legislature further finds and declares that major appliances, automobile bodies and parts, and other large metallic items can be effectively separated from the waste stream and recycled. Therefore, the Legislature finds and declares that the purpose of this act is to decrease the disposal of recyclable metallic discards at solid waste landfills and to increase recycling of those products.

SEC. 2. Chapter 3.5 (commencing with Section 42160) is added to Part 3 of Division 30 of the Public Resources Code, to read:

CHAPTER 3.5. METALLIC DISCARDS

Article 1. Definitions

42160. The definitions in this article govern the construction of this chapter.

42161. "Metallic discard" means any large metal article or product, or any part thereof, including, but not limited to, metal furniture, machinery, major appliances, electronic products, and wood-burning stoves.

42162. "Salvage" means the controlled removal of metallic discards from the solid waste stream at a permitted solid waste facility for the express purpose of recycling or reuse.

42163. "Recycling residue" means nonhazardous residue or residue treated to be nonhazardous that is a direct result of metals recovery operations for the express purposes of recycling.

42164. "Solid waste landfill" means a solid waste landfill, as defined in Section 46027.

42165. "Vehicle" means any device used for transportation. "Vehicle" includes bicycles, airplanes, and other transportation devices not used on highways, and automobiles and other vehicles, as defined in Section 670 of the Vehicle Code.

42166. "Major appliance" means any domestic or commercial device, including, but not limited to, a washing machine, clothes dryer, hot water heater, dehumidifier, conventional oven, microwave oven, stove, refrigerator, freezer, air-conditioner, trash compactor, and residential furnace.

42167. "Materials which require special handling" means sodium azide canisters in unspent air bags which are determined to be hazardous by federal and state law or regulation, encapsulated polychlorinated biphenyls (PCBs) in major appliances, and chlorofluorocarbons (CFCs) injected in air-conditioning/refrigeration units or any other hazardous waste or hazardous material regulated by the Department of Toxic Substances Control.

42168. "Solid waste facility" means a solid waste facility as defined in Section 40194.

Article 2. Disposal of Metallic Discard

42170. (a) After January 1, 1994, no solid waste facility shall accept for disposal any major appliance, vehicle, or other metallic discard which contains enough metal to be economically feasible to salvage as determined by the solid waste facility operator.

(b) After January 1, 1994, no person shall place a major appliance or other metallic discard in mixed municipal solid waste or dispose of a major appliance or other metallic discard in or on land, except for a solid waste landfill operator who complies with subdivision (a). This material shall be delivered to a facility to process for reuse or recycling, placed in a solid waste facility for salvage, or disposed of at a solid waste landfill if economically infeasible to salvage.

(c) Notwithstanding any other provision of law, any solid waste facility operator who salvages major appliances, vehicles, other metallic discards or other recyclables shall not be required to revise the solid waste facilities permit to implement these activities.

(d) This section shall be subject to enforcement pursuant to Chapter 1 (commencing with Section 45000) of Part 5.

42171. The board shall evaluate the use of recycling residue for use as solid waste landfill cover materials or for use as extenders for currently used cover material. If used as daily cover or as extenders to daily cover, recycling residues shall have all of the physical characteristics required by regulations for cover materials adopted pursuant to Section 43020. The results of this evaluation shall be reported pursuant to Section 42950.

42172. The board shall conduct its evaluation of recycling residue

in consultation with the Department of Toxic Substances Control, the State Air Resources Board, the State Water Resources Control Board, and any other agency having pertinent jurisdiction. Recycling residue used as daily cover or as extenders in daily cover shall meet performance standards and requirements for cover material as specified in Sections 17682, 17683, and 18211 of Title 14 of the California Code of Regulations.

Article 3. Processing Metallic Discards

42175. On or after January 1, 1994, materials which require special handling shall be removed from major appliances and vehicles in which they are contained prior to crushing for transport or transferring to a baler or shredder for recycling.

42176. On or before January 1, 1993, and with existing funds, the board shall develop and submit a management plan to the Legislature for the removal of materials which require special handling from major appliances and vehicles. The plan shall specify how the removal of materials which require special handling should be financed and administered. The plan shall also specify what, if any, state agency approvals are to be required of those persons removing these materials.

Article 4. Fees and Surcharges for Recycling Residue

42185. No city or county shall impose any fees, except facility operating fees, state-mandated fees, or fees pursuant to Sections 41901, 41902, 41903, and 43213, or surcharges on the disposal of recycling residue generated from the metals recovery and reuse of major appliances, vehicles, and other metallic discards, provided the residue is not delivered to the solid waste facility mixed with other solid waste.

CHAPTER 850

An act relating to public social services.

[Approved by Governor October 11, 1991. Filed with Secretary of State October 14, 1991]

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

SECTION 1. (a) The Legislature finds and declares that when possible the State of California should seek to obtain federal matching funds in order to preserve needed public services.

(b) It is the intent of the Legislature that the State Department of Health Services in cooperation with the State Department of Social Services take advantage of provisions of federal law which

allow state medicaid programs to obtain federal matching funds for personal care services provided to eligible individuals.

(c) It is the intent of the Legislature that the State Department of Health Services and the State Department of Social Services jointly devise a plan which would make it possible to bill the Medi-Cal program for personal care services rendered through the In-Home Supportive Services program.

(d) It is the intent of the Legislature that the implementation of this act shall not decrease the funding available to existing Medi-Cal services.

SEC. 2. The State Department of Health Services and the State Department of Social Services, in consultation with appropriate legislative staff, shall investigate obtaining federal medicaid matching funds for personal care services provided to eligible recipients through the IHSS program that will not result in net General Fund expenditure increases when fully implemented.

CHAPTER 851

An act relating to resources, and making an appropriation therefor.

[Approved by Governor October 11, 1991 Filed with Secretary of State October 14, 1991]

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

SECTION 1. The Legislature finds and declares as follows:

(a) The State of California is a participant in the Central Valley Habitat Joint Venture, a geographic division of the North American Waterfowl Management Plan, which has identified the need to establish 120,000 acres of new wetlands in the Central Valley and to improve the habitat on publicly owned wetlands.

(b) The State of California is developing "Guidelines for the Establishment and Use of Mitigation Banks," which will facilitate meeting requirements to mitigate for wetlands damage caused by state construction projects. In order for state agencies to participate in mitigation banking, it is necessary to identify state-owned lands that are suitable for mitigation bank sites.

(c) Those state-owned sites suitable for wetlands restoration not needed for public purposes can serve to relieve pressures on private property to meet wetlands restoration goals in the Central Valley.

SEC. 2. (a) The Director of Fish and Game shall conduct a survey of state-owned wetlands and nonwetlands suitable for restoration larger than 100 acres in the Sacramento Valley and the San Joaquin Valley.

(b) In conducting the survey, the director shall seek information from the State Lands Commission, the Department of Parks and

Recreation, the Department of Water Resources, and the Department of Transportation. Each state agency shall prepare a list of properties of more than 100 acres owned by the state agency in the Sacramento Valley and the San Joaquin Valley, and depict those properties on 15-minute quadrangle maps of the United States Geological Survey.

(c) The director shall consult with appropriate federal agencies, including the Bureau of Reclamation, the Bureau of Land Management, the Fish and Wildlife Service, and the Forest Service.

(d) The director, or his or her representative, in conducting the survey, shall do the following:

(1) Determine what information and resources are already available from departments or agencies in order to reduce the cost of the lands survey.

(2) Determine what resources and information may be available from other public and private agencies in order to reduce the cost of the lands survey.

(3) Clarify that the purpose of the lands survey is not a definitive mapping of wetlands for regulatory purposes.

(4) Identify state-owned lands most suitable for wetlands restoration due to elevations, existence of levees, available sources of water, and proximity to existing wetlands that are protected.

(5) Prepare and submit a report on the survey to the Legislature and the Governor not later than January 1, 1994.

(e) The Department of Fish and Game shall provide for the costs of the study from within its existing resources.

SEC. 3. Any contract entered into for the expenditure of funds that are appropriated to the Department of Fish and Game from the Public Resources Account in the Cigarette and Tobacco Products Surtax Fund to carry out activities for the purposes of the Central Valley Habitat Joint Venture with any entity, which may include a nonprofit organization, are not subject to Part 2 (commencing with Section 10100) of Division 2 of the Public Contract Code.

CHAPTER 852

An act to add Section 740.4 to the Public Utilities Code, relating to public utilities.

[Approved by Governor October 11, 1991. Filed with Secretary of State October 14, 1991]

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

SECTION 1. The Legislature finds and declares all of the following:

(a) The Legislative Analyst has reported that factors including a national recession, reductions in federal defense spending, and the

California drought have negatively affected tax revenue sources, including corporate, sales, and income tax revenues.

(b) A correlation exists between declining state revenues and the general economic health and competitiveness of the state.

(c) Increased economic development, business retention, and recruitment resources must be identified to assist in both building and maintaining California's economic strength and competitiveness.

(d) Findings of a recent study by a major southern California utility report:

(1) Industrial recruitment and retention are major program components of most out-of-state economic development agencies.

(2) Public utilities located outside of California have established close working relationships with local and state agencies and private industry in support of economic development.

(e) Public utilities have a role in maintaining the economic vitality of the state, and that role can include collaboration with governmental entities in furthering the competitiveness of California business.

SEC. 2. Section 740.4 is added to the Public Utilities Code, to read:

740.4. (a) The commission shall authorize public utilities to engage in programs to encourage economic development.

(b) Reasonable expenses for economic development programs, as specified in this section, shall be allowed, to the extent of ratepayer benefit, when setting rates to be charged by public utilities electing to initiate these programs.

(c) Economic development activities may include, but not be limited to, the following:

(1) Community marketing and development.

(2) Technical assistance to support technology transfer.

(3) Market research.

(4) Site inventories.

(5) Industrial and commercial expansion and relocation assistance.

(6) Business retention and recruitment.

(7) Management assistance.

(d) This section shall not be interpreted to permit the funding of economic development activities which benefit any affiliated companies or parent holding companies beyond that which is authorized by law as of January 1, 1992.

(e) This section shall not authorize the commission to establish discriminatory rates for the purpose of attracting or benefiting specific industries or business entities, except that incentives may be provided for the benefit of industries or business entities located within the boundaries of enterprise zones or economic incentive areas in accordance with the provisions of Chapter 12.8 (commencing with Section 7070) and Article 1 (commencing with Section 7080) of Chapter 12.9 of Division 7 of Title 1 of the

Government Code.

(f) It is the intent of the Legislature that the Public Utilities Commission, in implementing this chapter, shall allow rate recovery of expenses supporting economic development programs within the geographic area served by any public utility to the extent the utility incurring or proposing to incur, those expenses demonstrates that the ratepayers of the public utility will derive a benefit from those programs. Further, it is the intent of the Legislature that expenses for economic development programs incurred prior to the effective date of this chapter, which have not been previously authorized to be recovered in rates, shall not be subject to rate recovery.

CHAPTER 853

An act to add Sections 68081 and 76141 to the Education Code, relating to postsecondary education.

[Approved by Governor October 11, 1991. Filed with Secretary of State October 14, 1991]

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

SECTION 1. Section 68081 is added to the Education Code, to read:

68081. A student who is enrolled in a state government legislative or executive fellowship program administered by the state or the California State University is entitled to resident classification at the California State University during the period of the fellowship.

SEC. 2. Section 76141 is added to the Education Code, to read:

76141. (a) In addition to the nonresident tuition fee established pursuant to Section 76140, a community college district may charge to nonresident students who are both citizens and residents of a foreign country an amount not to exceed the amount that was expended by the district for capital outlay in the preceding fiscal year divided by the total full-time equivalent students of the district in the preceding fiscal year. Any fee charged pursuant to this section shall not exceed 50 percent of the nonresident tuition fee established pursuant to Section 76140. Any student who can demonstrate economic hardship or who is a victim of persecution or discrimination in the country in which the student is a citizen and resident is exempt from this fee.

For purposes of this subdivision, the governing board of each community college district that chooses to impose the charge authorized by this section shall adopt a definition of economic hardship that encompasses the financial circumstances of a person who is a recipient of benefits under the Aid to Families with Dependent Children program, the Supplemental Income/State Supplementary Program, or a general assistance program.

(b) Revenue from any fee charged pursuant to this section shall be expended only for purposes of capital outlay, maintenance, and equipment.

CHAPTER 854

An act to amend Sections 5001 , 5003, 5004, 5005, 5006, and 5008 of, and to add Sections 5001.5, 5005.3, and 5013 to, the Insurance Code, relating to earthquake insurance.

[Approved by Governor October 11, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 5001 of the Insurance Code is amended to read:

5001. As used in this chapter:

(a) "Commissioner" means the Insurance Commissioner.

(b) "Fund" means the California Residential Earthquake Recovery Fund.

(c) "Residential property" means any of the following when located in this state and used primarily for residential purposes:

(1) Any privately owned single-family residential structure, including, but not limited to, (A) individually owned manufactured homes, as defined in Section 18007 of the Health and Safety Code and (B) factory-built housing, as defined in Section 19971 of the Health and Safety Code, as long as the factory-built housing is privately owned and consists of a single-family residential dwelling.

(2) Individually owned condominium units.

(3) Two-unit residential structures, if at least one of the units is owner occupied.

(4) The owner-occupied unit or units of three- and four-unit residential structures.

(5) Individually owned mobilehomes, as defined in subdivision (a) of Section 18008 of the Health and Safety Code, but not including a recreational vehicle or commercial coach.

"Residential property" does not include real property used for any commercial, industrial, or business purpose, except (A) a single-family structure rented for individual residential purposes or (B) other residential property described in this subdivision, a part of which is also used secondarily for an in-home office or other business purpose as defined by regulations which shall be adopted by the commissioner. It does not include property owned by any public entity. It does not include property being financed under the Veterans' Farm and Home Purchase Act of 1943 or the Veterans' Farm and Home Purchase Act of 1974, commonly known as the Cal-Vet Farm and Home Loan Program.

(d) "Residential property insurance" means insurance covering the loss, destruction, or damage of residential property. It includes policies purchased by an association of condominium owners covering against the loss, destruction, or damage of residential units. It does not include insurance covering contents or personal property.

SEC. 2. Section 5001.5 is added to the Insurance Code, to read:

5001.5. (a) The commissioner shall, by regulation, define "structure" and "covered structural damage" for the purpose of establishing the extent and types of damage that are covered by this chapter, and exclusions from coverage. Covered structural damage shall relate directly to the habitability of the residential property. The definition of structure shall include the residential dwelling itself, including installations that allow or facilitate access to the dwelling by handicapped persons. The definition of structure shall not include outbuildings, walkways, sidewalks, patios, decks, swimming pools, spas, fences, satellite dishes, landscaping, other decorative features, or features or installations that are not essential to habitability.

(b) The commissioner shall, by regulation, define "qualifying earthquake events" for the purpose of determining those seismic events that qualify for coverage under this chapter. Damage not caused by a qualifying earthquake event shall not be covered by this chapter.

SEC. 3. Section 5003 of the Insurance Code, as amended by Chapter 81 of the Statutes of 1991, is amended to read:

5003. (a) Every insured shall at the time of paying the premium for the policy of residential property insurance on property located within the state, pay the earthquake surcharge established by the commissioner. Every association of condominium owners shall pay the earthquake surcharge for its condominium owners. Every insurer shall, at the time of collecting such premium, collect this surcharge. The insurer shall state on the billing statement, as an item separate from the premium, the amount of the surcharge as determined by the commissioner. The surcharge, in addition to the fee required by subdivision (b), shall be shown on the invoice as part of the total amount due from the insured. If the policy provides for the payment of premium on an installment basis, an insurer may collect and remit the surcharge on an installment basis as well. In no event shall an insurer be required to transmit funds in satisfaction of any surcharge obligation that is owed and unpaid by an insured if the transmittal of those funds would make the insured delinquent in meeting the obligations of the policy of residential property insurance. The commissioner shall adopt regulations to implement this subdivision.

(b) Every insurer shall, at the time of collecting the premium for the policy of residential property insurance on property located within the state, collect, along with the earthquake surcharge, an appropriate fee to recover the cost of the insurers', agents', and brokers' administrative expenses for collecting the surcharge. The

fee for the costs shall be filed with the commissioner, and shall be deemed approved unless it is disapproved within 30 days of submission. In the first year of the program, in no event shall the fee exceed one dollar ($1). On October 1, 1992, an insurer may submit to the commissioner a request for approval of a fee to recover the insurer's administrative costs. The fee that may be charged after the first year shall not be subject to the one dollar ($1) limit but in no event shall exceed the cost of the insurer's administrative expenses.

(c) The surcharge shall be transmitted to the Treasurer within 30 days of the end of the month within which the surcharge was collected. These surcharges shall be held in a segregated, interest-bearing account on behalf of the fund with all the accrued interest being remitted to the fund on a monthly basis, but in no event more than 30 days after the end of the month. The Treasurer shall deposit the remitted funds into the fund. The insurer shall transmit to the commissioner the name of the person from whom the surcharge is collected, the names of the insureds who have failed to pay, and other relevant information required by the commissioner. The insurer shall retain the fee collected under subdivision (b) for its administration.

(d) Every residence for which the surcharge is collected shall be provided payments as provided by this chapter in the event of earthquake damage to the residence.

(e) An insurer's obligations under an insurance contract shall not be limited or abrogated by an insured's failure to pay the surcharge.

(f) (1) Except as provided in paragraphs (2) and (3), neither an insurer, an agent or broker, nor the fund shall be liable to a policyholder for the return of the surcharge, or any part thereof, after it has been paid, on account of the termination or cancellation of the underlying policy of residential property insurance.

(2) A surcharge on a policy of residential property insurance purchased by a lender as a result of a borrower or mortgagor's failure to purchase, maintain, or provide evidence of a policy of residential property insurance in accordance with the terms of the loan agreement, mortgage, or note and deed of trust shall be refunded in full by the insurer when the policy is canceled with no earned premium and the surcharge has not been transmitted to the fund.

(3) In the case where the surcharge has been transmitted to the fund, the department shall credit to the insurer the surcharge less the costs to the fund of processing the surcharge remittance and refund. In this case, the insurer shall only be required to refund the portion of the surcharge that it has received from the fund.

(g) (1) In the case of a condominium development or other residential property for which the policy of residential property insurance is purchased by an association or a group of two or more owners, or by a single owner for both units of a two-unit residential property, the surcharge shall be computed and collected on a per-unit basis.

(2) In the event of a claim against the fund by any claimant who

has paid a surcharge based on the computation method of this subdivision, deductibles and maximum limits on payments shall be applied on a per-unit basis.

(3) Payments by the fund to a condominium association claimant shall be made to the condominium association that is the named insured under the residential property insurance policy issued to the condominium association. Payments by the fund to other claimants for whose property residential property insurance was purchased by an association or group of two or more owners shall be made to the association or group as the case may be.

(4) The commissioner shall adopt regulations to implement this subdivision.

SEC. 4. Section 5004 of the Insurance Code, as amended by Section 2 of Chapter 104 of the Statutes of 1991, is amended to read:

5004. (a) The commissioner shall establish the surcharge to be collected pursuant to Section 5003. The surcharge shall be established as follows:

(1) The commissioner shall provide for different surcharges for different risks based upon the earthquake risk for the location and the risk presented by the type and age of the residential property. The commissioner also shall establish a single, fixed surcharge for property insured by policies of residential property insurance purchased by a lender as a result of a mortgagor's failure to purchase, maintain, or provide evidence of, a policy of residential property insurance in accordance with the terms of the mortgage or note and deed of trust. The commissioner may establish a reduced surcharge for residential property specifically designed or retrofitted to withstand earthquake damage provided that the reduction is based on evidence of identifiable and achievable retrofit procedures which reduce the cost of loss from seismic activity.

(2) Except as provided by paragraph (3), the surcharge for a single residence shall not be lower than twelve dollars ($12) or higher than sixty dollars ($60).

(3) The commissioner may adjust the surcharge annually to reflect extraordinary changes in the risk, temporary or extraordinary changes in the condition of the fund, and changes in residential construction costs. However, no annual increase may be made under this paragraph in excess of the increase in the Engineering News Record construction cost index.

(b) The commissioner shall immediately report to the policy committees of the Legislature with jurisdiction over insurance and to the Joint Legislative Budget Committee upon establishing or increasing the surcharge or fee as authorized by this section.

SEC. 5. Section 5005 of the Insurance Code, as added by Chapter 104 of the Statutes of 1991, is amended to read:

5005. (a) The fund shall make payment for structural damages as provided in this chapter to owners of residential property located within the state other than for losses caused by fire, subject to the following limits:

(1) Payment for structural damage is limited to a maximum of fifteen thousand dollars ($15,000) per occurrence.

(2) The payments shall be subject to a deductible equal to one-half of 1 percent of the amount of fire coverage as stated in the policy of residential property insurance, or, if there is no stated amount per unit of residential property, then the fair market value of the residence, excluding land value, but in no case less than one thousand dollars ($1,000), and in no case more than three thousand five hundred dollars ($3,500).

(b) The amount established by subdivision (a) shall be adjusted annually by the commissioner to reflect changes in the construction cost for residential structures.

(c) Except as provided by subdivision (b) of Section 5008, payments from the fund shall apply only for property for which the surcharge was collected. The property shall remain eligible for payments for the period for which the underlying residential property insurance is in effect. The commissioner shall adopt regulations to accommodate payment of surcharges prior to the first renewal date of residential property insurance occurring after commencement of operation of the fund.

(d) The fund shall not make payments to the extent that any loss or damage is covered by any privately purchased policy of insurance. Insurers may submit earthquake insurance rating plans which include deductibles varying in relation to insured values and payments provided under this chapter.

(e) Payments shall not be made by the fund for any loss which is not reported within 90 days after the event causing the loss, except as provided by regulations issued by the commissioner.

The commissioner shall provide an explanation of this requirement, in 10-point type boldface type, with the notice required by Section 5009.

SEC. 6. Section 5005.3 is added to the Insurance Code, to read:

5005.3. All covered structural damage to a residential structure that is caused by a qualifying earthquake event shall give rise to a single claim under the fund. No person or policyholder shall submit, or receive payment by the fund for, more than one claim per residential structure, per qualifying earthquake event.

SEC. 7. Section 5006 of the Insurance Code, as amended by Chapter 104 of the Statutes of 1991, is amended to read:

5006. (a) The commissioner may contract with insurers, licensees of the department, or other persons or entities for the provision of adjustment services. Any person or entity that provides adjustment services shall submit its recommendations to the commissioner, and any payment made on the claim shall be paid by the fund to the claimant.

(b) The commissioner may use a portion of the fund to purchase reinsurance. The commissioner is authorized to contract with insurance brokers and reinsurance providers to obtain reinsurance coverage, and receive reinsurance claims payments, in connection

with the expected liabilities of the fund.

SEC. 8. Section 5008 of the Insurance Code, as amended by Chapter 81 of the Statutes of 1991, is amended to read:

5008. (a) This chapter shall apply to every policy of residential property insurance issued or renewed on or after January 1, 1992, insuring residential property in the state, for losses arising from earthquakes occurring on or after January 1, 1992.

(b) Notwithstanding subdivision (a), payments shall be provided by the fund to owners of residential property located in the state if the residential insurance policy was in effect on January 1, 1992, and the next time for collection of premiums within the meaning of subdivision (a) of Section 5003 has not occurred. However, this subdivision does not apply to residential insurance policies for which the next time of collection of premiums is after December 31, 1992.

(c) The surcharge and fee imposed by this chapter shall not be subject to the gross premiums tax and are not premiums for any other purpose, including the payment of commissions.

SEC. 9. Section 5013 is added to the Insurance Code, to read:

5013. (a) After the program has been in operation for five years, the commissioner shall conduct a study of program operations and report the results of that study to the Governor and the Legislature. The scope of the study and report shall include, but not be limited to, the condition of the fund, an evaluation of the functioning of the program in terms of its stated purposes, and a recommendation of whether the program should be continued, and if it should be continued, an analysis of any changes in program operations that may be necessary to better fulfill its purposes. The report shall be submitted no later than January 31, 1997.

(b) The commissioner shall, within 120 days following any seismic event that results in the payment of claims by the fund, submit to the Legislature a concise written report of program operations related to that seismic event. The commissioner shall submit to the Legislature, one year following a major seismic event that results in payment of claims from the fund, a detailed report of program operations related to the seismic event. The reports required by this subdivision shall include, but not be limited to, a report of progress on payment of claims, a report of payments made and anticipated by the fund, and a general assessment of the functioning of the fund in response to the seismic event.

CHAPTER 855

An act to amend Section 2688 of, and to add Sections 2661.5 and 2673 to, the Business and Professions Code, relating to physical therapy, and making an appropriation therefor.

[Approved by Governor October 11, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 2661.5 is added to the Business and Professions Code, to read:

2661.5. (a) In any order issued in resolution of a disciplinary proceeding before the committee, the committee may request the administrative law judge to direct any licensee found guilty of unprofessional conduct to pay to the committee a sum not to exceed the actual and reasonable costs of the investigation and prosecution of the case.

(b) The costs to be assessed shall be fixed by the administrative law judge and shall not in any event be increased by the committee. When the committee does not adopt a proposed decision and remands the case to an administrative law judge, the administrative law judge shall not increase the amount of the assessed costs specified in the proposed decision.

(c) When the payment directed in an order for payment of costs is not made by the licensee, the committee may enforce the order of payment by bringing an action in any appropriate court. This right of enforcement shall be in addition to any other rights the committee may have as to any licensee directed to pay costs.

(d) In any judicial action for the recovery of costs, proof of the committee's decision shall be conclusive proof of the validity of the order of payment and the terms for payment.

(e) (1) Except as provided in paragraph (2), the committee shall not renew or reinstate the license or approval of any person who has failed to pay all of the costs ordered under this section.

(2) Notwithstanding paragraph (1), the committee may, in its discretion, conditionally renew or reinstate for a maximum of one year the license or approval of any person who demonstrates financial hardship and who enters into a formal agreement with the committee to reimburse the committee within that one year period for those unpaid costs.

(f) All costs recovered under this section shall be deposited in the Physical Therapy Fund as a reimbursement in either the fiscal year in which the costs are actually recovered or the previous fiscal year, as the committee may direct.

SEC. 2. Section 2673 is added to the Business and Professions Code, to read:

2673. The committee shall provide, on or before September 30,

1992, the Business and Professions Committee of the Senate and the Health Committee of the Assembly with a report on investigation and enforcement actions pursuant to this chapter. This report shall identify the following:

(a) The number of individuals who have been investigated or disciplined pursuant to this chapter, by category of investigation and enforcement action.

(b) The cost of an investigation or enforcement action pursuant to this chapter on an individual case basis.

(c) The percentage of funds derived from an increase in fees pursuant to Senate Bill 483 of the 1990–91 Regular Session that will be used for investigational, enforcement, and related activities by the board and committee.

SEC. 3. Section 2688 of the Business and Professions Code is amended to read:

2688. The amount of fees provided in connection with licenses or approvals for the practice of physical therapy is as follows:

(a) The application fee for a physical therapist's license shall be fixed by the examining committee at not more than fifty dollars ($50). The application fee for an applicant under Section 2653 shall be fixed by the committee at not more than one hundred dollars ($100).

(b) The examination and reexamination fees for the physical therapist examination and the physical therapist assistant examination shall be the actual cost to the committee of the purchase and grading of each written examination, plus the actual cost to the committee of administering each examination.

(c) The initial license fee for a physical therapist license shall be eighty dollars ($80), unless a lower fee is fixed by the committee.

(d) The renewal fee for a physical therapist license shall be eighty dollars ($80), unless a lower fee is fixed by the committee.

(e) A fee to be set by the committee of not more than fifty dollars ($50) shall be charged for each application for approval as a physical therapist assistant.

(f) A fee of eighty dollars ($80) shall be charged for the issuance of and for the renewal of each approval as a physical therapist assistant, unless a lower fee is fixed by the committee.

(g) Notwithstanding Section 163.5, the delinquency fee shall be 50 percent of the renewal fee in effect.

(h) The duplicate wall certificate fee shall not exceed twenty dollars ($20). The duplicate renewal receipt fee shall not exceed twenty dollars ($20).

(i) The endorsement or letter of good standing fee is thirty dollars ($30).

CHAPTER 856

An act to amend Sections 16724, 16730, 16731, 16731.5, 16740, 16741, and 16754.3 of, and to add Section 16724.6 to, the Government Code, relating to state bonds, and making an appropriation therefor.

[Approved by Governor October 11, 1991 Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 16724 of the Government Code is amended to read:

16724. The bond act shall contain all of the following provisions:

(a) A statement of the total amount of bonds authorized to be issued and the purpose for which the proceeds from the sale of the bonds may be used.

(b) The creation of a committee and fund, and the naming of the board as these items are defined in Section 16722.

(c) A statement that the bonds are valid obligations of the state and a pledge of the full faith and credit of the state for the punctual payment of both principal and interest thereof.

(d) An appropriation from the General Fund in the State Treasury of the sum annually as shall be necessary to pay the principal and interest on the bonds as they become due and payable.

(e) A requirement that there be collected annually in the same manner and at the same time as other state revenue is collected the sum, in addition to the ordinary revenues of the state, as is required to pay the principal and interest on the bonds; and a provision making it the duty of all officers charged by law with any duty in regard to the collections of the revenue to do and perform each and every act which is necessary to collect that additional sum.

(f) If the bond act provides that the fund shall have any receipts other than the proceeds of the sale of bonds, the proceeds of interim financing, or the investment earnings on the proceeds of bond sales or interim financing, then the bond act shall also specify whether those receipts shall be transferred to the General Fund as a reimbursement for debt service payments or be used for the same purpose for which the proceeds of the sale of the bonds may be used.

(g) A provision incorporating the provisions of this chapter, and a declaration that the provisions hereof are included in the act as though set out in full therein.

(h) A statement that the bonds may be refunded in accordance with Article 6 (commencing with Section 16780), and that approval of the authorization of the bonds by the electors includes approval of any bonds issued to refund the bonds originally issued.

(i) A statement that notwithstanding any other provision of the bond act, or of the State General Obligation Bond Law (Chapter 4 (commencing with Section 16720) of Part 3 of Division 4 of Title 2

of the Government Code), if the Treasurer sells bonds pursuant to this bond act that include a bond counsel opinion to the effect that the interest on the bonds is excluded from gross income for federal tax purposes under designated conditions, the Treasurer may maintain separate accounts for the bond proceeds invested and the investment earnings on those proceeds, and may use or direct the use of those proceeds or earnings to pay any rebate, penalty, or other payment required under federal law, or take any other action with respect to the investment and use of those bond proceeds, as may be required or desirable under federal law in order to maintain the tax-exempt status of those bonds and to obtain any other advantage under federal law on behalf of the funds of this state.

(j) A statement that the board may request the Pooled Money Investment Board to make a loan from the Pooled Money Investment Account, in accordance with Section 16312, for the purposes of carrying out the bond act. The amount of the request shall not exceed the amount of the unsold bonds that the committee has by resolution authorized to be sold for the purpose of carrying out the bond act. The board shall execute any documents required by the Pooled Money Investment Board to obtain and repay the loan. Any amounts loaned shall be deposited in the fund to be allocated by the board in accordance with the bond act.

SEC. 1.5. Section 16724.6 is added to the Government Code, to read:

16724.6. There is hereby transferred from any bond fund created for the proceeds of sales of state general obligation bonds, the amounts necessary to reimburse the Treasurer for actual expenses incurred in: (1) administering loans from the Pooled Money Investment Account to the bond fund, (2) assuring bond program compliance with federal laws and regulations related to tax-exempt government obligations by tracking arbitrage and expenditures, calculating and remitting federal rebates and penalties, investing bond sale proceeds, establishing and maintaining special accounting systems, and providing such other services the Treasurer determines are necessary to maintain the tax-exempt status of the bonds.

SEC. 2. Section 16730 of the Government Code is amended to read:

16730. Upon request of the board, supported as required in the bond act, the committee shall determine the necessity or desirability of obtaining interim financing pursuant to Section 16312 or 16313 and of issuing any bonds authorized to be issued and the amount of interim financing or bonds then to be obtained or issued and sold. Successive issues of bonds may be authorized and sold and shall be designated by an appropriate number or other designation. It is not necessary that all of the bonds authorized to be issued be sold at any one time.

SEC. 3. Section 16731 of the Government Code is amended to read:

16731. Whenever the committee determines that the sale of all

or any part of the bonds authorized to be issued is necessary or desirable, it shall adopt a resolution to that effect. The resolution shall specify as to the bonds then to be sold:

(a) The aggregate number, aggregate par value, denominations and the date of the bonds to be then sold. The denominations shall be in the sum of one thousand dollars ($1,000), or multiples of that sum. The date appearing on the bonds shall be deemed to be the date of issuance for all purposes of this chapter, irrespective of the actual date of delivery of the bonds and the payment of the purchase price of the bonds.

(b) The dates of maturity, and the amount of the bonds maturing at each date of maturity, which amounts need not be equal, but which dates shall be at annual or semiannual intervals, and the first of which dates of maturity shall be not more than five years, and the last of which dates of maturity shall be not more than 45 years, after the date of the bonds.

(c) Whether or not the bonds are to be subject to redemption at the option of the board prior to maturity, and, if so, the provisions for the redemption, the manner of the call thereof, and the price or prices at which the bonds shall be subject to redemption.

(d) The annual rate, or rates, of interest which the bonds to be issued shall bear, which may be in multiples of one-eighth or one-twentieth of 1 percent, payable semiannually, but not in excess of 11 percent, which rate or rates may be determined at the time of the sale of the bonds.

(e) The interest payment dates.

(f) The technical form and language of the bonds.

(g) Whether or not the right is reserved to make delivery in the form of temporary or interim bonds, certificates, or receipts, exchangeable for definitive bonds when executed and available for delivery, and if the right is reserved the denominations and form of the temporary securities.

(h) Whether the bonds are to be issued in coupon form or in fully registered form, or both, and whether or not any coupon bonds are to be subject to registration, and if so, whether the registration is to be as to principal only, or as to both principal and interest, or in either of the forms at the option of the holder, and the form and all of the terms and conditions of the registration. If the registration is provided for, coupon bonds may be interchanged for registered bonds and registered bonds for coupon bonds, and all of the provisions of this chapter with reference to the payment of bonds and interest coupons shall be subject to the terms and conditions of the registration with respect to the payment of registered bonds and the interest on registered bonds.

(i) All other terms and conditions of the bonds and of the execution, issuance, and sale of the bonds, which shall be consistent with all of this chapter.

SEC. 3.5. Section 16731.5 of the Government Code, as added by Senate Bill 392 of the 1991–92 Regular Session, is amended to read:

16731.5. (a) Notwithstanding any other provision of this chapter, the committee may provide for the issuance of all or part of the bonds authorized to be issued as zero coupon or capital appreciation bonds. The committee shall adopt a resolution finding that issuance of these bonds is necessary and desirable, directing the Treasurer to arrange for preparation of the requisite number of suitable bonds, and specifying other provisions relating to the bonds including the following:

(1) The date, number, denominations, and aggregate par value of the bonds payable at maturity. The aggregate par value may be represented by bond certificates in denominations as the committee deems appropriate, but not less than one thousand dollars ($1,000).

(2) The dates of maturity and the aggregate amounts of the bonds maturing on each of these dates. Determination of maturity dates and amounts by the committee shall be made upon recommendation of the Treasurer to provide the maximum benefit to potential purchasers and to respond to the expected demand for the bonds. Whenever the committee determines to issue bonds from any authorized bond act as zero coupon or capital appreciation bonds, and to issue bonds from the same authorization at the same time pursuant to Section 16731, the committee may comply with the requirements of subdivision (b) of Section 16731 by taking into account all the bonds of the same authorization being issued at the same time.

(3) The interest rate or rates, and interest payment dates applicable to the bonds. Zero coupon bonds may bear a zero rate of interest, and capital appreciation bonds may bear a stated rate of interest payable only at maturity, compounded at the same rate, which rate or rates may be determined at the time of sale of the bonds. The rate of interest borne by these bonds, or the nominal interest rate taking into account the original issue discount of these bonds, when bearing a zero interest rate, shall not exceed 11 percent per annum.

(4) Any provisions for the redemption of the bonds prior to their stated maturity.

(5) The technical form and language of the bonds.

(6) All other terms and conditions of the bonds and of their execution, issuance, and sale, deemed necessary and appropriate by the committee.

(b) Notwithstanding any other provision of this chapter, when the committee determines to issue bonds as zero coupon or capital appreciation bonds, all of the following shall apply:

(1) The bonds may be sold at negotiated sale at a price below the par value in a manner consistent with paragraph (3) of subdivision (a). If the committee determines to issue other bonds authorized by the same bond act at the same time as zero coupon or capital appreciation bonds are issued, the other bonds may also be sold at negotiated sale with a discount of not more than 3 percent of the par amount thereof.

(2) For purposes of determining the principal amount of bonds of any voted authorization outstanding, in the case of any bonds which are zero coupon or capital appreciation bonds and do not provide for payment of interest on the bond prior to maturity, the principal amount of the bonds shall be the cash price paid by the initial purchasers of the bonds to the state, and deposited in the fund, plus the amount of any costs of issuance of the bonds. Within 30 days of the delivery of any zero coupon or capital appreciation bonds, the Treasurer shall submit to the committee a certificate stating the principal amount of bonds of each issue, calculated as stated in this subdivision, which have been sold, and the certification shall be conclusive for all purposes under this chapter and the constitution.

(3) The committee may arrange to utilize the services of investment banks, commercial banks, savings and loans or other financial institutions, or other advisers as it may deem appropriate to publicize and assist in the marketing and sale of zero coupon or capital appreciation bonds.

(c) When zero coupon or capital appreciation bonds are issued pursuant to this section, the debt service payments on the bonds should continue to be managed in a manner consistent with the state's policy of retiring general obligation bonds in an orderly efficient manner. It is the expectation of the Legislature that the authority provided by this section will not be used to defer debt service payments as a means of preserving General Fund moneys for short-term purposes. The committee shall provide in the resolution authorizing the issuance of zero coupon or capital appreciation bonds that the state shall set aside, in a separate trust fund within the State Treasury, an amount in each year representing the amount of interest accrued during that year to be payable at the maturity of the bonds, with these payments to be deemed a payment of debt service on the bonds.

SEC. 4. Section 16740 of the Government Code is amended to read:

16740. After the adoption by the committee of any resolution in conformity with Section 16731, the Treasurer shall arrange for the preparation of the requisite number of suitable bonds, in accordance with the resolution, and in so doing shall arrange for the imprinting thereon of the interest rates and other appropriate matter after the sale of the bonds and the awarding thereof to the successful bidder.

SEC. 5. Section 16741 of the Government Code is amended to read:

16741. All bonds shall bear the facsimile signature of the Governor, the facsimile signature of the Controller, and the facsimile signature of the Treasurer, and each of the bonds shall bear an impress or a facsimile of the Great Seal of the State of California. Each such signature shall be that of the person who shall be in office at the date of authorizing the affixing thereof. Bonds and coupons so executed, when sold, shall be valid and binding notwithstanding any of these persons having ceased to hold their respective offices before

the issuance and delivery of the bonds.

SEC. 6. Section 16754.3 of the Government Code is amended to read:

16754.3. (a) The bonds specified in the resolution shall be sold by the Treasurer, at the time fixed by the Treasurer, and upon the notice that the Treasurer may deem advisable, or at the time to which the sale shall have been so continued, either at public sale, upon sealed bids, to the bidder whose bid will result in the lowest interest cost on account of those bonds or by negotiated sale if the Treasurer determines it will result in a lower interest cost. The Treasurer may sell the bonds at a price below the par value thereof, but the discount on bonds so sold shall not exceed 3 percent of the par value. The interest, if any, accrued to the date of delivery of, and payment for, the bonds shall be added to the sale price of the bonds in any case.

(b) The method of determining the lowest interest cost bid shall be prescribed in the bond resolution and shall be limited to either the net interest cost method or the true interest cost method. The net interest cost of each bid shall be determined by ascertaining the total amount of interest which the state would be required to pay under that bid, from the date of the bonds to the respective maturity dates of the bonds then offered for sale, at the interest rate or rates specified in the bid, less the total amount of the premium, if any (or plus the total amount of the discount, if any), offered by the bid. The bid under which the amount so ascertained is the least shall be deemed to be the bid resulting in the lowest net interest cost. Under the true interest cost method, the bonds shall be awarded to the bidder submitting the lowest interest rate bid determined by the nominal interest rate that, when compounded semiannually and used to discount the debt service payments on the bonds to the date of the bonds, results in an amount equal to the price bid for the bonds, excluding interest accrued to the date of delivery. Under either method the sale shall be for cash, payable upon the delivery of the bonds in definitive form, or if the right to deliver temporary securities has been reserved, then upon the delivery of the temporary securities.

(c) This section shall apply to any bonds authorized at any statewide election held at any time after the effective date of this section. Section 16754 shall apply only to bonds authorized at elections held before the effective date of this section.

SEC. 7. Section 3.5 of this act shall only become operative if Senate Bill 392 is enacted during the 1991 portion of the 1991–92 Regular Session.

CHAPTER 857

An act to amend Section 87302 of, to add Section 87501 to, and to repeal Sections 89503.5, 89505.5, and 89507 of, the Government Code, relating to the Political Reform Act of 1974.

[Approved by Governor October 11, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 87302 of the Government Code is amended to read:

87302. Each Conflict of Interest Code shall contain the following provisions:

(a) Specific enumeration of the positions within the agency, other than those specified in Section 87200, which involve the making or participation in the making of decisions which may foreseeably have a material effect on any financial interest and for each such enumerated position, the specific types of investments, business positions, interests in real property, and sources of income which are reportable. An investment, business position, interest in real property, or source of income shall be made reportable by the Conflict of Interest Code if the business entity in which the investment or business position is held, the interest in real property, or the income or source of income may foreseeably be affected materially by any decision made or participated in by the designated employee by virtue of his or her position.

(b) Requirements that each designated employee, other than those specified in Section 87200, file statements at times and under circumstances described in this section, disclosing reportable investments, business positions, interests in real property and income. The information disclosed with respect to reportable investments, interests in real property, and income shall be the same as the information required by Sections 87206 and 87207. The first statement filed under a Conflict of Interest Code by a designated employee shall disclose any reportable investments, business positions, interests in real property, and income. An initial statement shall be filed by each designated employee within 30 days after the effective date of the Conflict of Interest Code, disclosing investments, business positions, and interests in real property held on the effective date of the Conflict of Interest Code and income received during the 12 months before the effective date of the Conflict of Interest Code. Thereafter, each new designated employee shall file a statement within 30 days after assuming office, or if subject to State Senate confirmation, 30 days after being appointed or nominated, disclosing investments, business positions, and interests in real property held on, and income received during the 12 months before, the date of assuming office or the date of being

appointed or nominated, respectively. Each designated employee shall file an annual statement, at the time specified in the Conflict of Interest Code, disclosing reportable investments, business positions, interest in real property and income held or received at any time during the previous calendar year or since the date the designated employee took office if during the calendar year. Every designated employee who leaves office shall file, within 30 days of leaving office, a statement disclosing reportable investments, business positions, interests in real property, and income held or received at any time during the period between the closing date of the last statement required to be filed and the date of leaving office.

(c) Specific provisions setting forth any circumstances under which designated employees or categories of designated employees must disqualify themselves from making, participating in the making, or using their official position to influence the making of any decision. Disqualification shall be required by the Conflict of Interest Code when the designated employee has a financial interest as defined in Section 87103, which it is reasonably foreseeable may be affected materially by the decision. No designated employee shall be required to disqualify himself or herself with respect to any matter which could not legally be acted upon or decided without his or her participation.

(d) For any position enumerated pursuant to subdivision (a), an individual who resigns the position within 45 days following initial appointment is not deemed to assume or leave office, provided that during the period between appointment and resignation, the individual does not make, participate in making, or use the position to influence any decision of the agency or receive, or become entitled to receive, any form of payment by virtue of being appointed to the position.

SEC. 2. Section 89501 is added to the Government Code, to read:

89501. Notwithstanding subdivision (n) of Section 87500, members of state licensing or regulatory boards, bureaus, or commissions shall file their statements of economic interest required by this chapter with their agency which shall make and retain a copy and forward the original to the commission which shall be the filing officer.

SEC. 3. Section 89503.5 of the Government Code is repealed.

SEC. 4. Section 89505.5 of the Government Code is repealed.

SEC. 5. Section 89507 of the Government Code is repealed.

SEC. 6. The Legislature finds and declares that the provisions of this act further the purposes of the Political Reform Act of 1974 within the meaning of subdivision (a) of Section 81012 of the Government Code.

CHAPTER 858

An act to amend Sections 4343, 4344, 4345, 4346, 4347, 4348, 4349, 4350, 4351, and 4352 of, and to amend the heading of Chapter 4 (commencing with Section 4343) of Part 3 of Division 4 of, and to add Sections 4350.5 and 4352.5 to, the Welfare and Institutions Code, relating to mental health, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 11, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. The heading of Chapter 4 (commencing with Section 4343) of Part 3 of Division 4 of the Welfare and Institutions Code is amended to read:

CHAPTER 4. PRIMARY INTERVENTION PROGRAM

SEC. 2. Section 4343 of the Welfare and Institutions Code is amended to read:

4343. The Legislature recognizes that prevention and early intervention services have long been slighted in the community mental health programs and has identified, as a goal of the Bronzan-McCorquodale program, the prevention of serious mental disorders and psychological problems. It is the intent of the Legislature to establish throughout the state a school-based primary intervention program designed for the early detection and prevention of emotional, behavioral, and learning problems in primary grade children with services provided by child aides or unpaid volunteers under the supervision of mental health professionals. The Legislature recognizes the documented significant improvement of children who have participated in the program over time. The goal of the primary intervention program is to help young children derive maximum profit from the school experience and, in so doing, prevent later-life problems of school failure, unemployment, delinquency, criminal behavior, and substance abuse.

SEC. 3. Section 4344 of the Welfare and Institutions Code is amended to read:

4344. Primary intervention programs shall be developed in accordance with the guidelines and principles set forth in this chapter. To this end, school districts, publicly funded preschool programs, and local mental health programs may implement primary intervention programs with available funds, or may jointly apply to the State Department of Mental Health to be considered for grant programs outlined in this chapter.

SEC. 4. Section 4345 of the Welfare and Institutions Code is

amended to read:

4345. The Director of Mental Health shall develop guidelines for primary intervention programs in accordance with the following:

(a) School-based programs shall serve children in grades kindergarten through three.

(b) The programs may serve children beyond grade three who could benefit from the program but the number of children accepted into the program from grades four and above shall not represent more than 15 percent of the total number of children served.

(c) The programs may serve children enrolled in a publicly funded preschool program.

(d) The programs shall serve children referred by either a screening process, a teacher, school-based mental health professionals, other school personnel who have had opportunities to observe children in interpersonal contacts, or parents. If a screening process is utilized, behavior rating scales shall constitute the primary instrument from which referrals to primary intervention programs are made. To a more limited extent, observations of children working on structured tasks and standardized projective tests may also be used.

(e) The programs may include a parent involvement component.

(f) Before acceptance of a child into a primary intervention program, parental consent is required.

SEC. 5. Section 4346 of the Welfare and Institutions Code is amended to read:

4346. (a) Each primary intervention program shall have a core team consisting of school-based mental health professionals, including credentialed school psychologists, school counselors, school social workers, or local mental health program professionals, or a combination thereof, and child aides.

(b) The school-based mental health professionals shall be responsible for accepting referred children into the program, supervision of the child aides, assignment of a child to an aide, evaluation of progress, and determination of termination from the program. The mental health professionals shall supervise the scoring and interpretation of screening and assessment test data, conduct conferences with parents, and evaluate the effectiveness of individual aides.

(c) Where three or more child aides are utilized at a program site, one shall be designated as the senior aide, who shall be responsible for communication among school personnel, and for the administrative functions of scheduling with aides and teachers, arranging case conferences, and maintaining records. The senior aid shall not function as supervisor of the other child aides.

(d) Child aides, under supervision of the school-based mental health professional, shall conduct weekly play sessions with children served in the primary intervention programs. Child aides may be salaried school aides, unpaid volunteers or other persons with time and interest in working with young children, and who may be

provided stipends to meet expenses.

(e) All aides shall undergo a time-limited period of training that is focused on the main intervention strategies of the particular program and is provided prior to direct contacts with the children served in the primary intervention programs. Training shall, at a minimum, include basic child development, crisis intervention, techniques of nondirective play, other intervention skills appropriate to identified problem areas, and instruction in utilizing supervision and consultation.

SEC. 6. Section 4347 of the Welfare and Institutions Code is amended to read:

4347. School districts or publicly funded preschools receiving funds under this chapter shall demonstrate a capability for referral to appropriate public and private community services. The referrals shall be made through contacts with families in response to information regarding the need for referral arising from the child aide sessions.

SEC. 7. Section 4348 of the Welfare and Institutions Code is amended to read:

4348. (a) (1) Subject to the availability of funding each year, the State Department of Mental Health shall award primary intervention program grants pursuant to a request for proposal consistent with the provisions of this chapter.

(2) In counties over 100,000 in population, each application shall be the product of a proposal developed jointly between the local mental health program and a school district or publicly funded preschool. The grant award shall be administered by the local mental health program.

(3) In counties 100,000 in population and under, an application may be submitted pursuant to paragraph (2) or by the county superintendent of schools on behalf of one or more school districts, or by a school district. If an application is submitted by the county superintendent of schools or by a school district, the county office of education or the school district shall administer the grant and the application shall include evidence satisfactory to the department that adequate mental health training and consultation will be provided at each program site.

(b) Prior to dissemination of a request for proposal, the department shall establish a maximum figure for the amount of program funds available per project site and for the number of sites that may be funded per school district or regional area. The department shall be guided in its decisions by the availability of uncommitted funds designated for the primary intervention program.

(c) Primary intervention program grants shall be funded from funds allocated to the State Department of Mental Health for primary intervention programs in accordance with Section 11489 of the Health and Safety Code, and from moneys allocated from the General Fund and other funding sources.

(d) Upon approving a primary intervention grant, the State Department of Mental Health shall contract with the grant recipient to provide a primary intervention program for a period of one year, subject to annual renewal for an additional two years.

(e) Costs of a primary intervention program shall be financed on a basis of:

(1) A maximum of 50 percent from primary intervention program grant funds or a maximum established by the department, whichever is less.

(2) At least 50 percent from a combination of school district or preschool and local mental health program funds.

(f) The school district or preschool share may be in-kind contributions, including staff, space, equipment, materials, and reasonable administrative services.

(1) Contributed space to be used for child aide sessions must be comfortable, attractive, and engaging to young children. Small individual rooms are preferable.

(2) Space to be used for group meetings and consultation sessions may also be contributed.

(3) Equipment and materials may be contributed if they include items that encourage child participation in nondirective play.

(g) The local mental health program share may include either the cost of the mental health professionals as described in subdivision (b) of Section 4346 or the contribution of professional staff to provide case consultation to the child aides and assistance in child aide training.

SEC. 8. Section 4349 of the Welfare and Institutions Code is amended to read:

4349. The State Department of Mental Health shall, on the basis of applications submitted pursuant to a request for proposal, select recipients of primary intervention program grants based on the following criteria:

(a) Availability of professional and other program staff with related experience and interest in early intervention.

(b) Reasonable evidence of future stability of the program and its personnel.

(c) Representation of a wide range of economic, ethnic, and cultural populations.

(d) Demonstration of strong support by the teaching, pupil services, and administrative personnel at the school or preschool and by the local mental health program.

(e) Assurance that grants would supplement existing local resources.

SEC. 9. Section 4350 of the Welfare and Institutions Code is amended to read:

4350. (a) The role of the school district or preschool in each approved primary intervention program shall be to do all of the following:

(1) Arrange for mental health professionals based at the program

site to supervise program staff and procedures. These persons may be either pupil personnel staff or local mental health program staff.

(2) Recruit and train child aides.

(3) Screen and assess children in accordance with guidelines established by the department.

(4) Provide individual and group play sessions to selected children in accordance with guidelines established by the department.

(5) Provide space and equipment for child aide sessions with children and for staff meetings.

(6) Establish and maintain program records.

(7) Prepare program reports in accordance with guidelines established by the department.

(8) Submit periodic statements of program grant fund expenditures to the local mental health program for reimbursement in accordance with the approved program budget.

(b) The role of the local mental health program in each approved jointly proposed primary intervention program shall be to:

(1) Administer state program grant funds awarded by the department by contracting with the school district or preschool to provide a primary intervention program in accordance with this chapter and the joint proposal of the local mental health program and the school district or preschool as approved by the department.

(2) Contribute professional staff to the program to do both of the following:

(A) Assist the school district or preschool in the recruiting and initial training of child aides.

(B) Provide ongoing case consultation and training to the child aides at regular intervals at the program site.

(3) Ensure access to appropriate mental health treatment services available within the county's program for those children in the program and their families who require services that are beyond the scope and purposes of the primary intervention program.

(c) The role of the State Department of Mental Health in each approved primary intervention program shall be to:

(1) (A) Develop a contract with the local mental health program for provision of a primary intervention program in accordance with this chapter and the joint proposal of the local mental health program and school district or preschool as approved by the department.

(B) Develop contracts with the county superintendent of schools or a school district for provision of a primary intervention program in accordance with this chapter and the proposal submitted by the county superintendent of schools or a school district pursuant to paragraph (3) of subdivision (a) of Section 4348.

(2) Develop contracts with school districts or local mental health programs to permit the establishment of technical assistance centers to support in the timely and effective implementation of the primary intervention programs. Technical assistance centers shall be in

districts which have successfully implemented programs over a period of time.

(3) Disburse program grant funds to the local mental health program or county superintendent of schools or school district in accordance with terms of the contract.

(4) Conduct visits to each program site at least once during the first year of funding, and thereafter as necessary, in order to determine compliance with this chapter and the contract and to determine training needs of program staff.

(5) Provide for periodic training workshops for program staff.

(6) Establish guidelines for program procedures, screening and assessment of children, records, and reports.

SEC. 10. Section 4350.5 is added to the Welfare and Institutions Code, to read:

4350.5. (a) School districts or county superintendents of schools proposing to serve as grant recipients pursuant to paragraph (3) of subdivision (a) of Section 4348 shall perform the functions described in subdivision (a) of Section 4350.

(b) The county office of education or school district subject to subdivision (a) shall ensure the provision of adequate initial and ongoing case consultation and training for child aides at regular intervals at each program site from qualified mental health professionals.

SEC. 11. Section 4351 of the Welfare and Institutions Code is amended to read:

4351. The department shall provide for training of program personnel. Funds for this purpose may be appropriated under Section 11489 of the Health and Safety Code, through other special funds, or through the state budget. Training of program personnel may be contracted out to programs designated by the State Department of Mental Health appropriate to provide these services.

SEC. 12. Section 4352 of the Welfare and Institutions Code is amended to read:

4352. (a) The State Department of Mental Health shall conduct a review of each primary intervention program at least once during the first year of funding, and thereafter as necessary.

(b) The purposes of the reviews are program improvement and compliance with the guidelines set forth in this chapter. The review procedure shall be adequately flexible for application to primary intervention programs of varying sizes and models.

(c) The State Department of Mental Health may contract for the conducting of reviews with programs appropriate for providing these services. Funds may be appropriated for this purpose pursuant to Section 11489 of the Health and Safety Code, from other special funds, or through the annual Budget Act.

SEC. 13. Section 4352.5 is added to the Welfare and Institutions Code, to read:

4352.5. Up to 10 percent of the total state funds available annually for the primary intervention program from all sources may be

utilized by the department for administration, training, consultation, and evaluation.

SEC. 14. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to detect and prevent emotional, behavioral, and learning problems in primary grade children at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 859

An act to add Section 10147 to the Business and Professions Code, to add Section 2079.9 to the Civil Code, and to add Chapter 13.4 (commencing with Section 8893) to, Division 1 of Title 2 of the Government Code, relating to seismic safety.

[Approved by Governor October 11, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 10147 is added to the Business and Professions Code, to read:

10147. (a) On or before January 1, 1993, the Seismic Safety Commission shall develop, adopt, and publish a Commercial Property Owner's Guide to Earthquake Safety for distribution to licensees for purposes of Section 2079.9 of the Civil Code and, upon request, to any member of the general public.

(b) In developing the guide, the Seismic Safety Commission shall consult with the Office of Emergency Services, the Division of Mines and Geology of the Department of Conservation, the Department of Real Estate, and other interested agencies and persons.

(c) The commission shall, to the extent possible, rely on currently available data to develop the guide. To the extent necessary, the commission may contract for the development and production of the guide. The commission shall update the contents of the guide whenever it determines that information within the guide is sufficiently inaccurate or incomplete so as to reduce the effectiveness of the guide. The commission shall charge a fee to cover the costs of production, distribution, development, and updating the guide.

(d) The guide shall include, but need not be limited to, all of the following:

(1) Maps and information on geologic and seismic hazard conditions in the state.

(2) Explanations of typical structural and nonstructural earthquake hazards.

(3) Recommendations for mitigating the hazards of an earthquake, including references and explanations of what constitutes "adequate wall anchorage" as defined in Section 8893.1 of the Government Code.

(4) A statement that there are no guarantees of safety or damage prevention that can be made with respect to a major earthquake and that only precautions, such as retrofitting, can be taken to reduce the risk of various types of earthquake damage. For purposes of preparing the statement, the commission shall confer with insurers and design professional associations.

SEC. 2. Section 2079.9 is added to the Civil Code, to read:

2079.9. (a) If a Commercial Property Owner's Guide to Earthquake Safety described in Section 10147 of the Business and Professions Code is delivered to a transferee in connection with the transfer of real property, including property specified in Section 1102 or under Chapter 7.5 (commencing with Section 2621) of Division 2 of the Public Resources Code, a seller or broker is not required to provide additional information concerning, and the information shall be deemed to be adequate to inform the transferee regarding, geologic and seismic hazards, in general, as described in the guide, that may affect real property and mitigating measures that the transferee or seller might consider.

(b) Notwithstanding subdivision (a), nothing in this section increases or decreases the duties, if any, of sellers, their brokers or agents under this article or under Chapter 7.5 (commencing with Section 2621) or Chapter 7.8 (commencing with Section 2690) of Division 2 of the Public Resources Code, or alters the duty of a seller, agent, or broker to disclose the existence of known hazards on or affecting the real property.

SEC. 3. Chapter 13.4 (commencing with Section 8893) is added to Division 1 of Title 2 of the Government Code, to read:

CHAPTER 13.4. HAZARDOUS BUILDING WALL ANCHORAGE LAW

Article 1. Legislative Findings

8893. (a) The Legislature finds and declares that buildings constructed of precast concrete wall construction (commonly referred to as tilt-up buildings) or reinforced masonry buildings with inadequate wall anchorage to wood frame floors or roofs continue to pose a serious threat to public safety and the economic viability of the State of California because of their potential for damage and collapse during earthquakes.

(b) The Legislature further finds and declares that in areas affected by past earthquakes, buildings with walls that were properly anchored to floors or roofs suffered less earthquake damage, less earthquake collapse, and fewer hazards to life.

(c) Therefore, it is the intent of the Legislature that this chapter shall ensure that earthquake hazards of all precast concrete or

reinforced masonry buildings with inadequate wall anchorage to wood frame floors or roofs in the State of California are mitigated.

Article 2. Adequate Wall Anchorage

8893.1. (a) For purposes of this chapter, "adequate wall anchorage" means a connection between the wall and the floor, or between the wall and the roof construction, of a precast concrete or reinforced masonry building with wood frame floors or roof, which is capable of resisting the horizontal forces specified in Section 2312(g) or Section 2310 of the 1988 Edition of the Uniform Building Code of the International Conference of Building Officials. If adequate wall anchorage is achieved within three years from the date of receipt of notice pursuant to this chapter then compliance as specified in Section 8893.4 shall be deemed to have been achieved.

(b) Adequate wall anchorage shall not be accomplished by use of toe nails or nails subject to withdrawal or by wood ledgers or framing used in cross-grain bending or cross-grain tension. If adequate wall anchorage is achieved within three years from the date of receipt of notice pursuant to this chapter then compliance as specified in Section 8893.4 shall be deemed to have been achieved.

(c) Adequate wall anchorage shall include continuous ties or struts between diaphragm chords to distribute the horizontal forces specified in Section 2310 or Section 2336 of the 1991 Edition of the Uniform Building Code of the International Conference of Building Officials, whichever is greater. If adequate wall anchorage is achieved within three years of receipt of notice pursuant to this chapter then compliance as specified in Section 8893.4 shall be deemed to have been achieved.

8893.2. On and after January 1, 1993, the transferor, or his or her agent, of any precast concrete or reinforced masonry building with wood frame floors or roofs, built before January 1, 1975, which is located within any county or city shall, as soon as practicable before the sale, transfer, or exchange, deliver to the purchaser a copy of the Commercial Property Owner's Guide to Earthquake Safety described in Section 10147 of the Business and Professions Code.

8893.3. This article does not apply to any of the following:

(a) Transfers which are required to be preceded by the furnishing to a prospective transferee of a copy of a public report pursuant to Section 11018.1 of the Business and Professions Code.

(b) Transfers pursuant to court order, including, but not limited to, transfers ordered by a probate court in the administration of an estate, transfers pursuant to a writ of execution, transfers by a trustee in bankruptcy, transfers by eminent domain, or transfers resulting from a decree for specific performance.

(c) Transfers to a mortgagee by a mortgagor in default, transfers to a beneficiary of a deed of trust by a trustor in default, transfers by any foreclosure sale after default, transfers by any foreclosure sale after default in an obligation secured by a mortgage, transfers by a

sale under a power of sale after a default in an obligation secured by a deed of trust or secured by any other instrument containing a power of sale, or any subsequent transfer by a mortgagor or beneficiary of a deed of trust who accepts a deed in lieu of foreclosure or purchases the property at a foreclosure sale.

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

(e) Transfers from one coowner to one or more coowners.

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

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

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

(i) Transfers under Chapter 7 (commencing with Section 3691) or Chapter 8 (commencing with Section 3771) of Part 6 of Division 1 of the Revenue and Taxation Code.

(j) Transfers for which the transferee has agreed in writing that the building or structure will be demolished within one year of the date of transfer.

8893.4. If the transferee has received notice pursuant to this chapter and has not brought the building or structure into compliance within three years of that date, the owner shall not receive payment from any state assistance program for earthquake repairs resulting from damage during an earthquake until all other applicants have been paid.

8893.5. No transfer of title shall be invalidated on the basis of a failure to comply with this chapter.

CHAPTER 860

An act to add Article 22 (commencing with Section 20360) to Chapter 1 of Part 3 of Division 2 of the Public Contract Code, relating to transportation.

[Approved by Governor October 11, 1991 Filed with Secretary of State October 14, 1991.]

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

SECTION 1. (a) The Legislature finds and declares as follows:

(1) Traffic congestion and the air pollution resulting from vehicle emissions creates an unhealthy environment for the people of California, demonstrating the need for multimodal transportation systems in urban areas which will improve mobility, contribute to

better air quality, reduce traffic congestion, and lessen the consumption of fossil fuels.

(2) Certain rail transit technologies presently employed in urban California do not reflect the latest technological features potentially available through advanced rail systems, such as magnetic levitation, monorail, and other advanced rail systems, which may have environmental benefits and may be less expensive to construct, operate, and maintain.

(3) Public resources for the construction of rail transit systems, while substantially augmented by the recent adoption by the voters of such measures as Propositions 108, 111, and 116, are still inadequate to fund the implementation of advanced rail transit technologies needed to address traffic congestion and air pollution.

(4) The ability of local transportation agencies, which are responsible for providing local rail transit service, to deliver to the commuting public advanced rail transit technologies will be enhanced by a private sector program involving innovative agreements providing for private entities to undertake all or a portion of the study, planning, design, development, acquisition, installation, construction, and leasing of those rail systems and related intermodal facilities utilizing in whole or part private sources of financing.

(5) The Los Angeles County Transportation Commission has requested legislation that would allow it to seek proposals from the private sector for agreements to assist in implementing those rail systems and related facilities, including, but not limited to, systems to link the Los Angeles International Airport with the Palmdale Regional Airport and to link the eastern and western portions of the San Fernando Valley.

(6) The Los Angeles County Transportation Commission should be authorized to undertake, and the Department of Transportation should be required to assist in, the development through private sector initiatives of locally approved rail transit systems and related facilities that implement advanced rail transit technologies.

(b) In order to accomplish these purposes, the Legislature has enacted Article 22 (commencing with Section 20360) of Chapter 1 of Part 3 of Division 2 of the Public Utilities Code.

SEC. 2. Article 22 (commencing with Section 20360) is added to Chapter 1 of Part 3 of Division 2 of the Public Contract Code, to read:

Article 22. Los Angeles County Transportation Commission

20360. This article applies to contracts by the Los Angeles County Transportation Commission for rail transit facilities.

20361. As used in this article, the following terms have the definitions provided:

(a) "Commission" means the Los Angeles County Transportation Commission.

(b) "Department" means the Department of Transportation.

(c) "Protection from competition" means any contractual provision that is necessary to protect the project revenues required to repay the costs to study, plan, design, build, acquire, install, operate, and maintain rail transit systems and related facilities, and which will not unreasonably inhibit or prohibit the development of additional public transportation systems and facilities.

20362. (a) Notwithstanding any other provision of law, the commission may solicit proposals from, and negotiate and enter into agreements with, private entities for the study, planning, design, development, acquisition, installation, construction, leasing, and warranty of rail transit systems that implement advanced rail transit technology and related works of improvements, including passenger loading or intermodal facilities.

(b) A procurement pursuant to this article, or a procurement for the purposes specified in this article commenced prior to January 1, 1992, is valid if all of the following requirements are met:

(1) The commission shall make a finding by a two-thirds vote of all of its members that a specific procurement is in the best interests of the public.

(2) A request for proposals shall identify all significant evaluation factors.

(3) The commission shall establish reasonable procedures for technical evaluation of the proposals received and selection of proposals for the purposes of negotiations and entering into an agreement.

(4) The commission may negotiate and enter into agreements with proposers whose projects the commission determines meet the objectives of the requests for proposals. The decisions of the commission shall be discretionary, shall be based on a finding that the decisions made are in the best interest of the public, and shall be final.

(5) The commission shall conduct noticed public hearings, as follows:

(A) Prior to selecting a proposal or proposals for negotiation, hear public comments on and objections to the proposals received. Following consideration of those public comments and objections, the commission and shall accept, reject, or accept with conditions a proposal or proposals for negotiation of a proposed agreement; and

(B) Subsequent to selecting a proposal or proposals and prior to entering into an agreement, hear public comments on and objections to the terms and conditions of the proposed agreement. Following consideration of those public comments and objections, the commission shall approve, disapprove, or approve with conditions the proposed agreement or agreements.

(c) The commission shall make every effort to encourage the production in the Los Angeles area of rail transit equipment and materials procured pursuant to this article, unless federal funds are used for development of the rail transit system, in which case the commission shall encourage that local production to the extent

allowed by federal law.

20363. For purposes of facilitating these projects, the agreements may include provisions for the lease of facilities, rights-of-way, and airspace, exercise of the power of eminent domain to facilitate the purposes of the agreements, the granting of development rights and opportunities, the granting of necessary easements and rights of access, the issuance of permits and other authorizations, protection from competition, the sharing of costs and liabilities, remedies in the event of default of either of the parties, granting of other contractual and real property rights, and other provisions determined necessary to ensure the financing, development, and operation of feasible facilities.

20364. (a) The commission may exercise any power it possesses to facilitate the implementation of rail transit systems and related facilities pursuant to this article.

(b) Any agreement for the operation of rail transit systems constructed pursuant to this article shall be consistent with applicable law.

20365. (a) The commission and the department may enter into agreements with each other that define the responsibilities of each party in implementing the program pursuant to this article. The department may exercise any power it possesses to facilitate the implementation of, and use of rights-of-way for, rail transit systems and related facilities pursuant to this article.

(b) At the request of the commission, the department shall lease to the commission for up to 99 years, pursuant to subdivision (c), and the commission may sublease to third parties in accordance with this article, the use of areas above or below that portion of existing state highways and any portion other than the traveled portion of the right-of-way of state highways, to be directly used for rail transit systems, intermodal facilities, and related commercial development, so long as the improvements are feasible from an engineering standpoint, in conformity with established safety design standards, not in conflict with improvements to the affected state highway the department reasonably contemplated at the time of the lease, consistent with good ecological and environmental planning, and not in conflict with the zoning regulations of the local government concerned.

(c) The commission shall pay to the department one dollar ($1) per year for 35 years in consideration for the lease. Thereafter, the commission shall pay to the department an amount equal to 50 percent of the fair market value of the remainder of the lease.

(d) The revenues the commission receives from any sublease shall reflect a fair market return over the term of the sublease, giving consideration to the improvements, dedications, fees, and other contributions the sublessee agrees to make for the rail transit system, intermodal facilities and other public facilities, and shall be deposited in a special fund, kept separate and apart from other funds, and used solely to pay or reimburse the commission for all costs it has incurred

or will incur in connection with the development, operation, and maintenance of the rail transit system to which the sublease is related. However, if revenues exceed those costs and an adequate reserve for anticipated future costs, the department shall be entitled to the excess revenues.

20366. Projects authorized by this article shall do all of the following:

(a) Provide an opportunity to utilize advanced rail transit technology.

(b) Retain for the commission the authority to establish fare rates.

(c) Require no funding from the transactions and use tax revenues of the commission or from state funds directly for construction of rail transit systems and related facilities during the construction period of the rail transit system. However, nothing in this subdivision precludes the use or commitment of funds in connection with any guaranty, insurance policy, letter of credit agreement, or other credit enhancement or liquidity arrangement issued by the commission for the payment of interest, principal, and premiums on any loan, lease, bond, certificate of participation or other obligation, or evidence of indebtedness incurred in connection with the construction of the rail transit system and related facilities.

(d) In the County of Los Angeles, include a system linking the Los Angeles International Airport with the Palmdale Regional Airport. Any agreement entered into by the commission pursuant to this article shall also include an option that may be exercised by the commission to develop a system linking the eastern and western portions of the San Fernando Valley based upon an analysis that includes all of the following comparisons:

(1) The public costs of the system proposed in the option to those of any other system serving the same corridor proposed by the commission.

(2) The potential impacts on noise and air quality of the system proposed in the option to those of any other system serving the same corridor proposed by the commission.

(3) The time schedule for completion of construction of the system proposed in the option to that of any other system serving the same corridor proposed by the commission.

(e) Provide new service to commuters and an economic benefit to the public.

20367. All contracts entered into pursuant to this article shall include a requirement that the contractor exercise good faith efforts to achieve the disadvantaged business enterprise participation goals to be established for each contract by the commission in accordance with that agency's disadvantaged business enterprise program. The overall participation goal for the total dollar value of contracts awarded pursuant to this article shall be not less than 20 percent for disadvantaged business enterprises.

20368. A project constructed pursuant to this article is a public works project for purposes of Section 1720 of the Labor Code.

20369. Construction or operation of a project may require the relocation, replacement, or alteration of facilities of another public agency or private owner. The costs of that relocation, replacement, or alteration shall be borne by the commission and the facility owner in the same manner and proportion as they would be borne by the department and a facility owner with respect to state highways pursuant to Sections 680 and 700 to 711, inclusive, of the Streets and Highways Code.

CHAPTER 861

An act to add Section 14670.9 to the Government Code, relating to state lands.

[Approved by Governor October 11, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 14670.9 is added to the Government Code, to read:

14670.9. (a) Notwithstanding Sections 11011 and 14670, and Section 118 of the Streets and Highways Code, the Director of General Services, with the approval of the State Public Works Board, may lease for a period of no longer than 66 years, to the City of San Jose, the County of Santa Clara, or a public authority formed by the City of San Jose or the County of Santa Clara, the following real property:

Approximately 102 acres of vacant land located in the northerly side of the east campus of Agnews State Hospital, County of Santa Clara. The southerly line of this parcel shall be located on Center Road.

The lease shall be for current market value and upon those terms and conditions and with such reservations and exception which in his or her opinion may be in the best interest of the state. The lease shall not permit the construction of any permanent building within 400 feet of the nearest hospital building.

(b) Net revenues generated by the lease of the parcel of Agnews State Hospital land as described in subdivision (a), shall be deposited as follows:

(1) Fifty percent in the General Fund.

(2) Fifty percent in the special account of the Department of Developmental Services.

"Net revenues," as used in this section, means cash and the cash value of any compensation other than cash.

It is the intent of the Legislature that the appropriations from this account shall be for the purposes of nonrecurring expenditures within the State Department of Developmental Services such as

capital expenditures for developmental centers and startup of new state or private developmental services facilities.

(c) Notice of every public auction or bid opening shall be posted on the property to be leased and shall be published in a newspaper of general circulation published in the county in which the real property to be leased is situated. The lease of property pursuant to this section is exempt from the provisions of Sections 21100 to 21174, inclusive, of the Public Resources Code.

(d) As to any property leased pursuant to this section, the Director of General Services shall except and reserve to the state all mineral deposits, as defined in Section 6407 of the Public Resources Code, below a depth of 500 feet, without surface rights of entry.

SEC. 2. The Legislature finds and declares that the provision of decent and affordable housing for state employees, persons who have disabilities, and persons who are elderly, is a public purpose of great statewide importance.

CHAPTER 862

An act relating to public utilities.

[Approved by Governor October 11, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. The Public Utilities Commission shall not increase, or approve an increase in, rates for electrical services for agricultural and, if applicable, pumping customers by an amount more than the system average rate increase before June 1, 1992.

The State Energy Resources and Development Commission shall conduct an analysis of the economic implications of higher rates to agricultural class customers and the various alternatives available to them to reduce their electricity demands or to develop alternative, less expensive, power sources, and shall submit the analysis to the Legislature before June 1, 1992.

CHAPTER 863

An act to amend Section 15051 of the Health and Safety Code, relating to health facility construction inspectors.

[Approved by Governor October 11, 1991. Filed with Secretary of State October 14, 1991]

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

SECTION 1. Section 15051 of the Health and Safety Code is amended to read:

15051. (a) The hospital governing board or authority shall provide for and require competent and adequate inspection during construction or alteration by an inspector satisfactory to the architect or structural engineer, or both, and the statewide office. Except as otherwise provided in subdivision (b), the inspector shall act under the direction of the architect or structural engineer, or both, and be responsible to the board or authority. Nothing in this section shall be construed to prohibit any licensed architect, structural engineer, mechanical engineer, electrical engineer, or any facility maintenance personnel, if approved by the statewide office, from performing the duties of an inspector.

(b) Where alterations or repairs are to be conducted under the supervision of a professional engineer pursuant to Section 15048, the inspector need only be satisfactory to the statewide office and to the professional engineer, and the inspector shall act under the direction of the professional engineer.

(c) In approving any inspector, the statewide office shall consult with the Department of General Services.

(d) The statewide office shall make an inspection of the hospital buildings and of the work of construction or alteration as in its judgment is necessary or proper for the enforcement of this chapter and the protection of the safety of the public. Structural, fire, and panic safety elements and details shall be inspected by the statewide office through its contracts with the Department of General Services and the office of the State Fire Marshal.

(e) The statewide office shall approve one or more classes of inspectors that shall include, but not be limited to, all of the following:

(1) "A" inspectors, who may inspect all phases of construction, including, but not limited to, structural.

(2) "B" inspectors, who may inspect all phases of construction, except structural.

(3) "C" inspectors, who may inspect all phases of construction projects that the statewide office determines do not materially alter the mechanical, electrical, architectural, or structural integrity of the health facility.

CHAPTER 864

An act to amend Sections 15043 and 15051 of the Health and Safety Code, relating to hospital buildings.

[Approved by Governor October 11, 1991 Filed with Secretary of State October 14, 1991]

The people of the State of California do enact as follows:

SECTION 1. Section 15043 of the Health and Safety Code is amended to read:

15043. (a) The statewide office shall pass upon and approve or reject all plans for the construction or the alteration of any hospital building, independently reviewing the design to assure compliance with the requirements of this chapter. The statewide office shall review the structural systems and related details, which shall include the independent review of the geological data, through its contract with the Department of General Services. Geological data shall be reviewed by an engineering geologist, and structural design data shall be reviewed by a structural engineer.

(b) Whenever the statewide office finds a violation of this chapter which requires correction, a citation of the violation shall be issued to the hospital governing board or authority in writing and shall include a proper reference to the regulation or statute being violated.

SEC. 1.5. Section 15043 of the Health and Safety Code is amended to read:

15043. (a) The statewide office shall pass upon and approve or reject all plans for the construction or the alteration of any hospital building, independently reviewing the design to assure compliance with the requirements of this chapter. The statewide office shall review the structural systems and related details, which shall include the independent review of the geological data. Geological data shall be reviewed by an engineering geologist, and structural design data shall be reviewed by a structural engineer.

(b) Whenever the statewide office finds a violation of this chapter which requires correction, a citation of the violation shall be issued to the hospital governing board or authority in writing and shall include a proper reference to the regulation or statute being violated.

SEC. 2. Section 15051 of the Health and Safety Code is amended to read:

15051. (a) The hospital governing board or authority shall provide for and require competent and adequate inspection during construction or alteration by an inspector satisfactory to the architect or structural engineer, or both, and the statewide office. Except as otherwise provided in subdivision (b), the inspector shall act under the direction of the architect or structural engineer, or both, and be

responsible to the board or authority. Nothing in this section shall be construed to prohibit any licensed architect, structural engineer, mechanical engineer, electrical engineer, or any facility maintenance personnel, if approved by the statewide office, from performing the duties of an inspector.

(b) Where alterations or repairs are to be conducted under the supervision of a professional engineer pursuant to Section 15048, the inspector need only be satisfactory to the statewide office and to the professional engineer, and the inspector shall act under the direction of the professional engineer.

(c) In approving any inspector, the statewide office shall consult with the Department of General Services.

(d) The statewide office shall make an inspection of the hospital buildings and of the work of construction or alteration as in its judgment is necessary or proper for the enforcement of this chapter and the protection of the safety of the public. Structural, fire, and panic safety elements and details shall be inspected by the statewide office through its contracts with the Department of General Services and the office of the State Fire Marshal. Whenever the statewide office finds a violation of this chapter which requires correction, the citation of the violation shall be issued to the hospital governing board or authority in writing and shall include a proper reference to the regulation or statute being violated.

SEC. 2.5. Section 15051 of the Health and Safety Code is amended to read:

15051. (a) The hospital governing board or authority shall provide for and require competent and adequate inspection during construction or alteration by an inspector satisfactory to the architect or structural engineer, or both, and the statewide office. Except as otherwise provided in subdivision (b), the inspector shall act under the direction of the architect or structural engineer, or both, and be responsible to the board or authority. Nothing in this section shall be construed to prohibit any licensed architect, structural engineer, mechanical engineer, electrical engineer, or any facility maintenance personnel, if approved by the statewide office, from performing the duties of an inspector.

(b) Where alterations or repairs are to be conducted under the supervision of a professional engineer pursuant to Section 15048, the inspector need only be satisfactory to the statewide office and to the professional engineer, and the inspector shall act under the direction of the professional engineer.

(c) In approving any inspector, the statewide office shall consult with the Department of General Services.

(d) The statewide office shall make an inspection of the hospital buildings and of the work of construction or alteration as in its judgment is necessary or proper for the enforcement of this chapter and the protection of the safety of the public.

Whenever the statewide office finds a violation of this chapter which requires correction, the citation of the violation shall be issued

to the hospital governing board or authority in writing and shall include a proper reference to the regulation or statute being violated.

SEC. 2.6. Section 15051 of the Health and Safety Code is amended to read:

15051. (a) The hospital governing board or authority shall provide for and require competent and adequate inspection during construction or alteration by an inspector satisfactory to the architect or structural engineer, or both, and the statewide office. Except as otherwise provided in subdivision (b), the inspector shall act under the direction of the architect or structural engineer, or both, and be responsible to the board or authority. Nothing in this section shall be construed to prohibit any licensed architect, structural engineer, mechanical engineer, electrical engineer, or any facility maintenance personnel, if approved by the statewide office, from performing the duties of an inspector.

(b) Where alterations or repairs are to be conducted under the supervision of a professional engineer pursuant to Section 15048, the inspector need only be satisfactory to the statewide office and to the professional engineer, and the inspector shall act under the direction of the professional engineer.

(c) In approving any inspector, the statewide office shall consult with the Department of General Services.

(d) The statewide office shall make an inspection of the hospital buildings and of the work of construction or alteration as in its judgment is necessary or proper for the enforcement of this chapter and the protection of the safety of the public. Structural, fire, and panic safety elements and details shall be inspected by the statewide office through its contracts with the Department of General Services and the office of the State Fire Marshal.

Whenever the statewide office finds a violation of this chapter which requires correction, the citation of the violation shall be issued to the hospital governing board or authority in writing and shall include a proper reference to the regulation or statute being violated.

(e) The statewide office shall approve one or more classes of inspectors that shall include, but not be limited to, all of the following:

(1) "A" inspectors, who may inspect all phases of construction, including, but not limited to, structural.

(2) "B" inspectors, who may inspect all phases of construction, except structural.

(3) "C" inspectors, who may inspect all phases of construction projects that the statewide office determines do not materially alter the mechanical, electrical, architectural, or structural integrity of the health facility.

SEC. 2.7. Section 15051 of the Health and Safety Code is amended to read:

15051. (a) The hospital governing board or authority shall

provide for and require competent and adequate inspection during construction or alteration by an inspector satisfactory to the architect or structural engineer, or both, and the statewide office. Except as otherwise provided in subdivision (b), the inspector shall act under the direction of the architect or structural engineer, or both, and be responsible to the board or authority. Nothing in this section shall be construed to prohibit any licensed architect, structural engineer, mechanical engineer, electrical engineer, or any facility maintenance personnel, if approved by the statewide office, from performing the duties of an inspector.

(b) Where alterations or repairs are to be conducted under the supervision of a professional engineer pursuant to Section 15048, the inspector need only be satisfactory to the statewide office and to the professional engineer, and the inspector shall act under the direction of the professional engineer.

(c) In approving any inspector, the statewide office shall consult with the Department of General Services.

(d) The statewide office shall make an inspection of the hospital buildings and of the work of construction or alteration as in its judgment is necessary or proper for the enforcement of this chapter and the protection of the safety of the public.

Whenever the statewide office finds a violation of this chapter which requires correction, the citation of the violation shall be issued to the hospital governing board or authority in writing and shall include a proper reference to the regulation or statute being violated.

(e) The statewide office shall approve one or more classes of inspectors that shall include, but not be limited to, all of the following:

(1) "A" inspectors, who may inspect all phases of construction, including, but not limited to, structural.

(2) "B" inspectors, who may inspect all phases of construction, except structural.

(3) "C" inspectors, who may inspect all phases of construction projects that the statewide office determines do not materially alter the mechanical, electrical, architectural, or structural integrity of the health facility.

SEC. 3. Section 1.5 of this bill incorporates amendments to Section 15043 of the Health and Safety Code proposed by both this bill and AB 47. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1992, (2) each bill amends Section 15043 of the Health and Safety Code, and (3) this bill is enacted after AB 47, in which case Section 1 of this bill shall not become operative.

SEC. 4. (a) Section 2.5 of this bill incorporates amendments to Section 15051 of the Health and Safety Code proposed by both this bill and AB 47. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1992, (2) each bill amends Section 15051 of the Health and Safety Code, (3) AB 1230 is

not enacted or as enacted does not amend that section, and (4) this bill is enacted after AB 47, in which case Sections 2, 2.6, and 2.7 of this bill shall not become operative.

(b) Section 2.6 of this bill incorporates amendments to Section 15051 of the Health and Safety Code proposed by both this bill and AB 1230. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1992, (2) each bill amends Section 15051 of the Health and Safety Code, (3) AB 47 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after AB 1230 in which case Sections 2, 2.5, and 2.7 of this bill shall not become operative.

(c) Section 2.7 of this bill incorporates amendments to Section 15051 of the Health and Safety Code proposed by this bill, AB 47, and AB 1230. It shall only become operative if (1) all three bills are enacted and become effective on January 1, 1992, (2) all three bills amend Section 15051 of the Health and Safety Code, and (3) this bill is enacted after AB 47 and AB 1230, in which case Sections 2, 2.5, and 2.6 of this bill shall not become operative.

CHAPTER 865

An act to amend Sections 14950 and 14951 of, and to add Sections 14963 and 14964 to, the Government Code, and to amend Sections 15001, 15040, 15043, 15047, 15051, 15052, 15053, 15055, 15056, 15080, 18901, 18921, 18929, 18930, and 18941.5 of, to add Section 18934.7 to, to add Chapter 6 (commencing with Section 18949.1) to Part 2.5 of Division 13 of, and to repeal Section 15057 of, the Health and Safety Code, relating to architecture, development, and construction.

[Approved by Governor October 11, 1991. Filed with Secretary of State October 14, 1991]

The people of the State of California do enact as follows:

SECTION 1. The Legislature hereby finds and declares the following:

(a) There are more than 30 state offices involved in the regulation of the design and construction industry which fall within the jurisdiction of five of the Governor's cabinet secretaries.

(b) This fragmented governmental structure provides no single point of accountability or authority capable of streamlining and improving the overall regulatory system which leads to inconsistent and inefficient regulation which results in time delays and increased costs.

(c) Although the design and construction industry is the largest economic force in California with $45.7 billion in activity and over 600,000 people employed, the current governmental regulatory system does not afford the design and construction industry a single

point of authority capable of addressing the waste and duplication in this area of governmental regulation.

(d) In 1987, the Governor established the State and Consumer Services Agency Task Force on Design and Construction Policy which included architects, engineers, contractors, developers, and representatives from various state departments and which recommended that one solution to the problem would be to establish a single authority responsible for administering state design, construction, regulatory, capital outlay activities, and real estate activities.

(e) The state must build over 2,000 classrooms in the next 10 years just to keep class sizes equal to what they are today, but it takes twice as long to build a school today as it did in the 1960's.

SEC. 2. Nothing in this act is intended to expand the overall regulatory authority of the state agencies affected by the act. In that regard, this act shall not subject private development projects that would not otherwise be subject to state agency review or approval to state agency review or approval on or after the effective date of this act.

SEC. 3. Section 14950 of the Government Code is amended to read:

14950. There is in the Department of General Services a State Architect who shall report directly to the director. He or she shall be appointed by the Governor with the approval of the Senate for a term of four years commencing with January 15 next following the general election at which a Governor is elected, and he or she shall hold office until appointment and qualification of his or her successor or until 150 days shall have elapsed since the expiration of the term for which he or she was appointed, whichever first occurs; but he or she may be dismissed by the Governor, with or without cause, at any time. The Governor may fill any vacancy in the Office of State Architect for the unexpired portion of the term, but the appointment shall be subject to approval of the Senate at the next regular session of the Legislature.

No person shall be eligible for the Office of State Architect who has not, for a period of five years next preceding his or her appointment, held a certificate to practice architecture in California issued by the California State Board of Architectural Examiners.

The State Architect shall not engage in the private practice of architecture or in a managing capacity in any private business or enterprise. The salary of the State Architect shall be as provided by Article 1 (commencing with Section 11550) of Chapter 6 of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 4. Section 14951 of the Government Code is amended to read:

14951. The Department of General Services shall succeed to the powers, duties, and functions with respect to architectural services previously vested in the Division of Architecture or the State Architect of the Department of Public Works.

The State Architect has general charge, under the Department of General Services, of the erection of all state buildings and shall have an inspector assigned to each building during its construction.

It shall be the policy of the state that one of the prime considerations in the design of state buildings shall be the conservation of energy resources needed to heat, cool, and light these buildings; along with usefulness, environmental quality, aesthetic effect, and all matters relating to fire protection and fire safety.

In determining the requirements necessary to comply with this policy, the owning and operating costs for the anticipated life of the building shall be used rather than initial cost only.

SEC. 5. Section 14963 is added to the Government Code, to read:

14963. The duties and functions formerly conducted by the State Fire Marshal that relate to construction, school, plan checking, and construction inspection are hereby transferred to the Office of the State Architect.

SEC. 6. Section 14964 is added to the Government Code, to read:

14964. (a) The duties and functions formerly conducted by the Office of the State Architect and the State Fire Marshal that relate to hospital plan checking and construction inspection are hereby transferred to the Office of Statewide Health Planning and Development. These duties include, but are not limited to, those specified in Division 12.5 (commencing with Section 15000) of the Health and Safety Code.

(b) The qualifications for the personnel reviewing fire and life safety aspects of schools and hospitals within the Office of the State Architect and the Office of Statewide Health Planning and Development shall be the same as those qualifications required of personnel formerly reviewing fire and life safety aspects of those facilities within the Office of the State Fire Marshal. It shall continue to be the responsibility of the State Fire Marshal to provide a high level of ongoing professional development and training for the personnel reviewing fire and life safety aspects of schools and hospitals within the Office of the State Architect and the Office of Statewide Health Planning and Development.

(c) The qualifications for the personnel reviewing and inspecting structural safety aspects of hospitals at the Office of Statewide Health Planning and Development shall be the same as those qualifications required of personnel formerly reviewing and inspecting structural safety aspects of hospitals at the Office of the State Architect.

(d) From July 1, 1992, until July 1, 1994, both the Office of Statewide Health Planning and Development and the Office of the State Architect shall report quarterly to the Legislature and the interested public on the status of average length of plan review and approval for hospitals and schools respectively.

SEC. 7. Section 15001 of the Health and Safety Code is amended to read:

15001. It is the intent of the Legislature that hospitals, which

house patients who have less than the capacity of normally healthy persons to protect themselves, and which must be reasonably capable of providing services to the public after a disaster, shall be designed and constructed to resist, insofar as practical, the forces generated by earthquakes, gravity, and winds. In order to accomplish this purpose, the Legislature intends to establish proper building standards for earthquake resistance based upon current knowledge, and intends that procedures for the design and construction of hospitals be subjected to independent review. It is the intent of the Legislature to preempt from local jurisdictions the enforcement of all building standards published in the State Building Standards Code relating to the regulation of hospital projects and the enforcement of other regulations adopted pursuant to this chapter, and all other applicable state laws, including the plan checking and the inspection of the design and details of the architectural, structural, mechanical, plumbing, and electrical systems, and the observation of construction. The Office of Statewide Health Planning and Development shall assume these responsibilities by establishing, maintaining, and operating separate, but coordinated, plan review and field inspection units within the office.

It is the intent of the Legislature that where local jurisdictions have more restrictive requirements for the enforcement of building standards, other building regulations, and construction supervision, these requirements shall be enforced by the state.

It shall be the responsibility of each local jurisdiction to keep the Office of Statewide Health Planning and Development advised as to the existence of any more restrictive local requirements. Where a reasonable doubt exists as to whether the requirements of the local jurisdiction are more restrictive, the effect of these requirements shall be determined by the Building Safety Board.

It is further the intent of the Legislature that the Office of Statewide Health Planning and Development, with the advice of the Building Safety Board, may conduct research directed toward the reduction or elimination of earthquake safety hazards in hospital buildings, including contracting with any department of engineering at any public or private university in California to conduct research directed toward the reduction or elimination of earthquake safety hazards in hospital buildings.

SEC. 8. Section 15040 of the Health and Safety Code is amended to read:

15040. The statewide office shall observe the construction of, or addition to, any hospital building or the reconstruction or alteration of any hospital building, as it deems necessary to comply with this chapter for the protection of life and property.

SEC. 9. Section 15043 of the Health and Safety Code is amended to read:

15043. The statewide office shall pass upon and approve or reject all plans for the construction or the alteration of any hospital building, independently reviewing the design to assure compliance

with the requirements of this chapter. The statewide office shall review the structural systems and related details, which shall include the independent review of the geological data. Geological data shall be reviewed by an engineering geologist, and structural design data shall be reviewed by a structural engineer.

SEC. 9.5. Section 15043 of the Health and Safety Code is amended to read:

15043. (a) The statewide office shall pass upon and approve or reject all plans for the construction or the alteration of any hospital building, independently reviewing the design to assure compliance with the requirements of this chapter. The statewide office shall review the structural systems and related details, which shall include the independent review of the geological data. Geological data shall be reviewed by an engineering geologist, and structural design data shall be reviewed by a structural engineer.

(b) Whenever the statewide office finds a violation of this chapter which requires correction, a citation of the violation shall be issued to the hospital governing board or authority in writing and shall include a proper reference to the regulation or statute being violated.

SEC. 10. Section 15047 of the Health and Safety Code is amended to read:

15047. All fees shall be paid into the State Treasury and credited to the Hospital Building Account, in the Architecture Public Building Fund, and are continuously appropriated without regard to fiscal years for the use of the statewide office, subject to approval of the Department of Finance, in carrying out this chapter. Adjustments in the amounts of the fees, as determined by the statewide office and approved by the Department of Finance, shall be made within the limits set in Section 15046 in order to maintain a reasonable working balance in the account.

SEC. 11. Section 15051 of the Health and Safety Code is amended to read:

15051. (a) The hospital governing board or authority shall provide for and require competent and adequate inspection during construction or alteration by an inspector satisfactory to the architect or structural engineer, or both, and the statewide office. Except as otherwise provided in subdivision (b), the inspector shall act under the direction of the architect or structural engineer, or both, and be responsible to the board or authority. Nothing in this section shall be construed to prohibit any licensed architect, structural engineer, mechanical engineer, electrical engineer, or any facility maintenance personnel, if approved by the statewide office, from performing the duties of an inspector.

(b) Where alterations or repairs are to be conducted under the supervision of a professional engineer pursuant to Section 15048, the inspector need only be satisfactory to the statewide office and to the professional engineer, and the inspector shall act under the direction of the professional engineer.

(c) In approving any inspector, the statewide office shall consult with the Department of General Services.

(d) The statewide office shall make an inspection of the hospital buildings and of the work of construction or alteration as in its judgment is necessary or proper for the enforcement of this chapter and the protection of the safety of the public.

SEC. 11.5. Section 15051 of the Health and Safety Code is amended to read:

15051. (a) The hospital governing board or authority shall provide for and require competent and adequate inspection during construction or alteration by an inspector satisfactory to the architect or structural engineer, or both, and the statewide office. Except as otherwise provided in subdivision (b), the inspector shall act under the direction of the architect or structural engineer, or both, and be responsible to the board or authority. Nothing in this section shall be construed to prohibit any licensed architect, structural engineer, mechanical engineer, electrical engineer, or any facility maintenance personnel, if approved by the statewide office, from performing the duties of an inspector.

(b) Where alterations or repairs are to be conducted under the supervision of a professional engineer pursuant to Section 15048, the inspector need only be satisfactory to the statewide office and to the professional engineer, and the inspector shall act under the direction of the professional engineer.

(c) In approving any inspector, the statewide office shall consult with the Department of General Services.

(d) The statewide office shall make an inspection of the hospital buildings and of the work of construction or alteration as in its judgment is necessary or proper for the enforcement of this chapter and the protection of the safety of the public.

Whenever the statewide office finds a violation of this chapter which requires correction, the citation of the violation shall be issued to the hospital governing board or authority in writing and shall include a proper reference to the regulation or statute being violated.

SEC. 11.6. Section 15051 of the Health and Safety Code is amended to read:

15051. (a) The hospital governing board or authority shall provide for and require competent and adequate inspection during construction or alteration by an inspector satisfactory to the architect or structural engineer, or both, and the statewide office. Except as otherwise provided in subdivision (b), the inspector shall act under the direction of the architect or structural engineer, or both, and be responsible to the board or authority. Nothing in this section shall be construed to prohibit any licensed architect, structural engineer, mechanical engineer, electrical engineer, or any facility maintenance personnel, if approved by the statewide office, from performing the duties of an inspector.

(b) Where alterations or repairs are to be conducted under the

supervision of a professional engineer pursuant to Section 15048, the inspector need only be satisfactory to the statewide office and to the professional engineer, and the inspector shall act under the direction of the professional engineer.

(c) In approving any inspector, the statewide office shall consult with the Department of General Services.

(d) The statewide office shall make an inspection of the hospital buildings and of the work of construction or alteration as in its judgment is necessary or proper for the enforcement of this chapter and the protection of the safety of the public.

(e) The statewide office shall approve one or more classes of inspectors that shall include, but not be limited to, all of the following:

(1) "A" inspectors, who may inspect all phases of construction, including, but not limited to, structural.

(2) "B" inspectors, who may inspect all phases of construction, except structural.

(3) "C" inspectors, who may inspect all phases of construction projects that the statewide office determines do not materially alter the mechanical, electrical, architectural, or structural integrity of the health facility.

SEC. 11.7. Section 15051 of the Health and Safety Code is amended to read:

15051. (a) The hospital governing board or authority shall provide for and require competent and adequate inspection during construction or alteration by an inspector satisfactory to the architect or structural engineer, or both, and the statewide office. Except as otherwise provided in subdivision (b), the inspector shall act under the direction of the architect or structural engineer, or both, and be responsible to the board or authority. Nothing in this section shall be construed to prohibit any licensed architect, structural engineer, mechanical engineer, electrical engineer, or any facility maintenance personnel, if approved by the statewide office, from performing the duties of an inspector.

(b) Where alterations or repairs are to be conducted under the supervision of a professional engineer pursuant to Section 15048, the inspector need only be satisfactory to the statewide office and to the professional engineer, and the inspector shall act under the direction of the professional engineer.

(c) In approving any inspector, the statewide office shall consult with the Department of General Services.

(d) The statewide office shall make an inspection of the hospital buildings and of the work of construction or alteration as in its judgment is necessary or proper for the enforcement of this chapter and the protection of the safety of the public.

Whenever the statewide office finds a violation of this chapter which requires correction, the citation of the violation shall be issued to the hospital governing board or authority in writing and shall include a proper reference to the regulation or statute being

violated.

(e) The statewide office shall approve one or more classes of inspectors that shall include, but not be limited to, all of the following:

(1) "A" inspectors, who may inspect all phases of construction, including, but not limited to, structural.

(2) "(B)" inspectors, who may inspect all phases of construction, except structural.

(3) "(C)" inspectors, who may inspect all phases of construction projects that the statewide office determines do not materially alter the mechanical, electrical, architectural, or structural integrity of the health facility.

SEC. 12. Section 15052 of the Health and Safety Code is amended to read:

15052. From time to time, as the work of construction or alteration progresses and whenever the statewide office requires, the architect or structural engineer, or both, in charge of construction or registered engineer in charge of other work, the inspector on the work, and the contractor shall each make a report, duly verified by him or her, upon a form prescribed by the statewide office showing, of his or her own personal knowledge, that the work during the period covered by the report has been performed and materials used and installed are in accordance with the approved plans and specifications, setting forth such detailed statements of fact as are required by the statewide office.

The term "personal knowledge," as used in this section and as applied to the architect or registered engineer, or both, means personal knowledge which is the result of such general administration of construction as is required and accepted of, and for, these persons in the construction of buildings. These persons shall, however, use reasonable diligence to obtain the information required.

The term "personal knowledge," as applied to the inspector, means the actual personal knowledge of the inspector obtained by his or her personal observation of the work of construction at the construction site in all stages of progress.

The term "personal knowledge," as applied to the contractor, means the personal knowledge which is obtained from the construction of the building. The exercise of reasonable diligence to obtain the facts is required.

SEC. 13. Section 15053 of the Health and Safety Code is amended to read:

15053. Upon written request to the statewide office by the governing board or authority of any hospital, the statewide office shall make, or cause to be made, an examination and report on the structural condition of any hospital building subject to the payment by the governing board or authority of the actual expenses incurred by the statewide office.

SEC. 14. Section 15055 of the Health and Safety Code is amended

to read:

15055. Except as provided in Section 13985.80 of the Government Code, the statewide office shall from time to time make such rules and regulations as it deems necessary, proper, or suitable to effectually carry out this chapter. The statewide office shall also adopt and submit building standards for approval pursuant to Article 3 (commencing with Section 13985.50) of Chapter 2 of Part 4.5 of Division 3 of Title 2 of the Government Code relating to seismic structural safety for hospital buildings.

SEC. 15. Section 15056 of the Health and Safety Code is amended to read:

15056. The statewide office may enter into any agreements and contracts with any qualified person, department, agency, corporation, or legal entity, as determined by the statewide office, when necessary in order to facilitate the timely performance of the duties and responsibilities relating to the review and inspection of architectural, mechanical, electrical, and plumbing systems of hospital buildings to be constructed or altered or buildings under construction or alteration.

If the statewide office determines that the structural review of plans for a hospital building cannot be completed without undue delay, the statewide office may enter into contractual agreements with private structural engineers or local governments for the purpose of facilitating the timely performance of the duties and responsibilities relating to the review and inspection of plans and specifications of the structural systems of hospital construction projects.

The statewide office, with the advice of the Building Safety Board, shall prepare regulations, containing qualification criteria, for implementing the contractual agreement provisions of this section.

SEC. 16. Section 15057 of the Health and Safety Code is repealed.

SEC. 17. Section 15080 of the Health and Safety Code is amended to read:

15080. There is in the statewide office a Building Safety Board which shall advise and, except as provided in Section 13985.103 of the Government Code, shall act as a board of appeals with regard to seismic safety of hospitals. The Director of the Office of Statewide Health Planning and Development shall appoint the members of the Building Safety Board, which shall advise and, except as provided in Section 13985.103 of the Government Code, shall act as a board of appeals in all matters relating to the administration and enforcement of building standards relating to hospital buildings during construction or alteration projects published in the State Building Standards Code and the other provisions of this chapter.

SEC. 18. Section 18901 of the Health and Safety Code is amended to read:

18901. (a) This part shall be known and may be cited as the State Building Standards Law.

(b) The Building Standards Commission shall continue within the

State and Consumer Services Agency.

SEC. 19. Section 18921 of the Health and Safety Code is amended to read:

18921. (a) The appointed members of the commission shall be selected from, and represent the public, design professions, the building and construction industry, local government building officials, fire and safety officials, and labor in accordance with the following:

(b) Four members shall be appointed from among the professions and industries concerned with building construction as follows:

(1) An architect.

(2) A mechanical or electrical engineer or fire protection engineer.

(3) A structural engineer.

(4) A licensed contractor.

(c) Three members shall be appointed from among the general public at least one of whom shall be a physically handicapped person.

(d) One member shall be appointed from organized labor in the building trades.

(e) One member shall be appointed who is a local building official.

(f) One member shall be appointed who is a local fire official.

(g) At least one member of the commission shall be experienced and knowledgeable in barrier free architecture and aware of, and sensitive to, the requirements necessary to ensure public buildings are accessible to, and usable by, the physically handicapped.

(h) At least one member of the commission shall be experienced and knowledgeable in building energy efficiency standards.

As used in this section, "physically handicapped" means persons who have permanent mobility impairments which affect ambulation due to cerebral palsy, poliomyelitis, spinal cord injury, amputation, and other conditions or diseases which reduce mobility or require the use of crutches, canes, or wheelchairs.

SEC. 20. Section 18929 of the Health and Safety Code is amended to read:

18929. (a) The commission shall receive proposed building standards from state agencies for consideration in an annual code adoption cycle. The commission shall develop regulations setting forth the procedures for the annual adoption cycle. The regulations shall ensure the following:

(1) Adequate public participation in the development of building standards prior to submittal to the commission for adoption and approval.

(2) Adequate notice to the public in written form of the compiled building standards and their justification.

(3) Adequate technical review of proposed building standards and accompanying justification by advisory bodies appointed by the commission.

(4) Adequate time for review of recommendations by advisory

bodies prior to action by the commission.

(5) The procedures shall meet the intent of the Administrative Procedure Act and Section 18930.

(b) Where this section is in conflict with other provisions of the Building Standards Law, the intent of these provisions shall prevail.

(c) The provisions of this section shall not apply to any regulations adopted by the Department of Housing and Community Development that apply directly to the implementation or enforcement of building standards.

SEC. 21. Section 18930 of the Health and Safety Code is amended to read:

18930. (a) Any building standard or administrative regulations that apply directly to the implementation or enforcement of building standards adopted by state agencies shall be submitted, to and approved by, the State Building Standards Commission prior to codification. Prior to submission to the commission, building standards or administrative regulations that apply directly to the implementation or enforcement of building standards adopted by state agencies shall be adopted in compliance with the procedures specified in Article 5 (commencing with Section 11346) of Chapter 3.5 of Part 1 of Division 3 of Title 2 of the Government Code. Building standards adopted by state agencies and submitted to the commission for approval shall be accompanied by an analysis written by the adopting agency which shall, to the satisfaction of the commission, justify the approval thereof in terms of the following criteria:

(1) The proposed building standards or administrative regulations that apply directly to the implementation or enforcement of building standards do not conflict with, overlap, or duplicate other building standards or administrative regulations that apply directly to the implementation or enforcement of building standards.

(2) The proposed building standard is within the parameters established by enabling legislation and is not expressly within the exclusive jurisdiction of another agency.

(3) The public interest requires the adoption of the building standards or administrative regulations that apply directly to the implementation or enforcement of building standards.

(4) The proposed building standard or administrative regulations that apply directly to the implementation or enforcement of building standards is not unreasonable, arbitrary, unfair, or capricious, in whole or in part.

(5) The cost to the public is reasonable based on the overall benefit to be derived from the building standards or administrative regulations that apply directly to the implementation or enforcement of building standards.

(6) The proposed building standard or administrative regulations that apply directly to the implementation or enforcement of building standards is not unnecessarily ambiguous or vague, in whole or in part.

(7) The applicable national specifications, published standards, and model codes have been incorporated therein as provided in this part, where appropriate.

(A) If a national specification, published standard, or model code does not adequately address the goals of the state agency, a statement defining the inadequacy shall accompany the proposed building standard when submitted to the commission.

(B) If there is no national specification, published standard, or model code that is relevant to the proposed building standard, the state agency shall prepare a statement informing the commission and submit that statement with the proposed building standard.

(8) The format of the proposed building standards or administrative regulations that apply directly to the implementation or enforcement of building standards is consistent with that adopted by the commission.

(9) The proposed building standard, if intended to promote fire and panic safety, has the written approval of the State Fire Marshal.

(b) In reviewing building standards or administrative regulations that apply directly to the implementation or enforcement of building standards submitted for its approval, the commission shall consider only the following:

(1) Except as provided in subdivision (b) of Section 11342.3 of the Government Code, the record of the proceedings of the adopting agency.

(2) The evidence submitted to, and considered by, the adopting agency.

(3) The record of public comment that results from the commission's digest of proposed regulations.

(c) The commission shall give great weight to the determinations and analysis of the adopting agency on each of the criteria for approval set forth in subdivision (a). Any factual determinations of the adopting agency shall be considered conclusive by the commission unless the commission specifically finds, and sets forth its reasoning in writing, that the factual determination is arbitrary and capricious or substantially unsupported by the evidence considered by the adopting agency.

Whenever the commission makes a finding, as described in this subdivision, it shall return the standard to the adopting agency for a reexamination of its original determination of the disputed fact.

(d) Whenever a building standard is principally intended to protect the public health and safety, its adoption shall not be a "factual determination" for purposes of subdivision (c). Whenever a building standard is principally intended to conserve energy or other natural resources, the commission shall consider or review the cost to the public or benefit to be derived as a "factual determination" pursuant to subdivision (c). Whenever a building standard is intended to promote fire and panic safety, each agency shall, unless adopted by the State Fire Marshal, submit the building standard to the State Fire Marshal for prior approval.

(e) Whenever the commission finds, pursuant to paragraph (2) of subdivision (a), that a building standard is adopted by an adopting agency pursuant to statutes requiring adoption of the building standard or administrative regulations that apply directly to the implementation or enforcement of building standards, the commission shall not consider or review whether the adoption is in the public interest pursuant to paragraph (3) of subdivision (a).

SEC. 22. Section 18934.7 is added to the Health and Safety Code, to read:

18934.7. On or before January 1, 1993, the commission shall adopt, approve, codify, and publish by reference in the California Building Standards Code the building standards in Appendix Chapter 1 of the Uniform Code for Building Conservation of the International Conference of Building Officials to provide minimum standards for buildings specified in that appendix, except for buildings subject to building standards adopted pursuant to Part 1.5 (commencing with Section 17910).

SEC. 23. Section 18941.5 of the Health and Safety Code is amended to read:

18941.5. (a) The building standards contained in the Uniform Fire Code of the International Conference of Building Officials and the Western Fire Chiefs Association, Inc., the Uniform Building Code of the International Conference of Building Officials, Appendix Chapter 1 of the Uniform Code for Building Conservation of the International Conference of Building Officials, the Uniform Plumbing Code of the International Association of Plumbing and Mechanical Officials, the National Electrical Code of the National Fire Protection Association, the Uniform Mechanical Code of the International Conference of Building Officials and the International Association of Plumbing and Mechanical Officials as referenced in the California Building Standards Code shall apply to all occupancies throughout the state and shall become effective 180 days after publication in the California Building Standards Code by the commission, or at a later date after publication established by the commission.

(b) Amendments, additions, and deletions to the California Building Standards Code adopted by a city, county, or city and county pursuant to subdivision (c) or pursuant to Section 17958.7, together with all applicable portions of the California Building Standards Code, shall become effective 180 days after publication of the California Building Standards Code by the commission, or at a later date after publication established by the commission.

(c) Neither the State Building Standards Law contained in this part, nor the application of building standards contained in this section, shall limit the authority of a city, county, or city and county to establish more restrictive building standards reasonably necessary because of local climatic, geological, or topographical conditions. The governing body shall make the finding required by Section 17958.7 and the other requirements imposed by Section 17958.7 shall apply

to that finding. Nothing in this section shall limit the authority of fire protection districts pursuant to subdivision (a) of Section 13869.7. Further, nothing in this section shall require findings required by Section 17958.7 beyond those currently required for more restrictive building standards related to housing.

(d) No model code made applicable to any additional occupancy shall apply to any project which has been submitted for a building permit prior to the effective date of that model code.

SEC. 24. Chapter 6 (commencing with Section 18949.1) is added to Part 2.5 of Division 13 of the Health and Safety Code, to read:

CHAPTER 6. REGULATIONS

18949.1. Any responsibilities of the State Architect to adopt regulations relating to building standards are hereby transferred to the commission.

18949.2. (a) Any responsibilities of the State Fire Marshal to adopt, through a formal rulemaking process as provided in Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, relating to building standards, including, but not limited to, Sections 13108, 13143, 13143.6, and 13211, are hereby transferred to the commission.

(b) The State Fire Marshal shall remain the state agency responsible for developing building standards to implement the state's fire and life safety policy. In its role as the fire and life safety standard developing agency, the State Fire Marshal shall continue its existing activities and forums designed to facilitate compromise and consensus among the various individuals and groups involved in development of the state's codes related to fire and life safety.

(c) The state's fire and life safety building standards, as developed by the State Fire Marshal and as adopted by the commission, shall continue to be based on the state's fire and life safety policy goals and mandates as they existed prior to the enactment of this chapter and as they are amended.

(d) The role of the commission in reviewing and adopting fire and life safety building standards shall be strictly limited to a technical review of those standards, through a process integrated with the technical review of all other state building standards, and a determination as to whether those standards conform to the requirements of Section 18930 commonly known as the "nine point criteria."

(e) The commission may not rewrite or modify any fire or life safety building standard without the express mutual agreement of the State Fire Marshal. If the State Fire Marshal does not agree with the modification of a fire or life safety building standard as proposed by the commission, the authority of the commission shall be limited to disapproval of the standard, pursuant to the "nine point criteria" in Section 18930.

18949.3. Any responsibilities of the Office of Statewide Health

Planning and Development to adopt regulations relating to building standards, including, but not limited to, responsibilities specified in Division 12.5 (commencing with Section 15000), are hereby transferred to the commission.

18949.4. The State Energy Resources Conservation and Development Commission shall submit building standards to the commission for review and approval pursuant to Section 18930 in accordance with the time schedule established by the State Building Standards Commission.

18949.5. Any responsibilities of the Department of Housing and Community Development to adopt regulations relating to buildings standards are hereby transferred to the commission.

18949.6. (a) The commission shall adopt regulations setting forth the procedure for the adoption of building standards and administrative regulations that apply directly to the implementation or enforcement of building standards.

(b) Regulatory adoption shall be accomplished so as to facilitate the triennial adoption of the specified model codes pursuant to Section 18928.

(c) The regulations shall allow for the distribution of proposed building standards and regulatory changes to the public for review in compliance with the requirements of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340), Chapter 4 (commencing with Section 11370), and Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code) and for the acceptance of responses from the public.

(d) Proposed building standards shall be evaluated by qualified technical bodies comprised of representatives of appropriate state regulatory agencies and representative of affected private sector groups. At a minimum, separate technical bodies shall be established for the review of standards and regulations relating to health facilities and schools. These bodies shall make recommendations to the commission for approval, disapproval, or modification to the proposed regulations.

SEC. 25. Section 9.5 of this bill incorporates amendments to Section 15043 of the Health and Safety Code proposed by both this bill and AB 1039. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1992, (2) each bill amends Section 15043 of the Health and Safety Code, and (3) this bill is enacted after AB 1039, in which case Section 9 of this bill shall not become operative.

SEC. 26. (a) Section 11.5 of this bill incorporates amendments to Section 15051 of the Health and Safety Code proposed by both this bill and AB 1039. It shall only become operative if (1) both bills are enacted and become effective January 1, 1992, (2) each bill amends Section 15051 of the Health and Safety Code, (3) AB 1230 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after AB 1039, in which case Sections 11, 11.6, and 11.7 of

this bill shall not become operative.

(b) Section 11.6 of this bill incorporates amendments to Section 15051 of the Health and Safety Code proposed by both this bill and AB 1230. It shall only become operative if (1) both bills are enacted and become effective January 1, 1992, (2) each bill amends Section 15051 of the Health and Safety Code, (3) AB 1039 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after AB 1230 in which case Sections 11, 11.5, and 11.7 of this bill shall not become operative.

(c) Section 11.7 of this bill incorporates amendments to Section 15051 of the Health and Safety Code proposed by this bill, AB 1039, and AB 1230. It shall only become operative if (1) all three bills are enacted and become effective January 1, 1992, (2) all three bills amend Section 15051 of the Health and Safety Code, and (3) this bill is enacted after AB 1039 and AB 1230, in which case Sections 11, 11.5, and 11.6 of this bill shall not become operative.

CHAPTER 866

An act to amend Sections 128, 546, and 1219 of the Code of Civil Procedure, and to amend Section 12028.5 of, and to add Section 1203.11 to, the Penal Code, and to amend Section 8102 of the Welfare and Institutions Code, relating to domestic violence.

[Approved by Governor October 11, 1991. Filed with Secretary of State October 14, 1991]

The people of the State of California do enact as follows:

SECTION 1. Section 128 of the Code of Civil Procedure is amended to read:

128. (a) Every court shall have the power to do all of the following:

(1) To preserve and enforce order in its immediate presence.

(2) To enforce order in the proceedings before it, or before a person or persons empowered to conduct a judicial investigation under its authority.

(3) To provide for the orderly conduct of proceedings before it, or its officers.

(4) To compel obedience to its judgments, orders, and process, and to the orders of a judge out of court, in an action or proceeding pending therein.

(5) To control in furtherance of justice, the conduct of its ministerial officers, and of all other persons in any manner connected with a judicial proceeding before it, in every matter pertaining thereto.

(6) To compel the attendance of persons to testify in an action or proceeding pending therein, in the cases and manner provided in

this code.

(7) To administer oaths in an action or proceeding pending therein, and in all other cases where it may be necessary in the exercise of its powers and duties.

(8) To amend and control its process and orders so as to make them conform to law and justice.

(b) Notwithstanding Section 1211 or any other law, if an order of contempt is made affecting an attorney, his or her agent, investigator, or any person acting under the attorney's direction, in the preparation and conduct of any action or proceeding, the execution of any sentence shall be stayed pending the filing within three judicial days of a petition for extraordinary relief testing the lawfulness of the court's order, the violation of which is the basis of the contempt except for the conduct as may be proscribed by subdivision (b) of Section 6068 of the Business and Professions Code, relating to an attorney's duty to maintain respect due to the courts and judicial officers.

(c) Notwithstanding Section 1211 or any other law, if an order of contempt is made affecting a public safety employee acting within the scope of employment for reason of the employee's failure to comply with a duly issued subpoena or subpoena duces tecum, the execution of any sentence shall be stayed pending the filing within three judicial days of a petition for extraordinary relief testing the lawfulness of the court's order, a violation of which is the basis for the contempt.

As used in this subdivision, "public safety employee" includes any peace officer, firefighter, paramedic, or any other employee of a public law enforcement agency whose duty is either to maintain official records or to analyze or present evidence for investigative or prosecutorial purposes.

(d) Notwithstanding Section 1211 or any other law, if an order of contempt is made affecting the victim of a sexual assault, where the contempt consists of refusing to testify concerning that sexual assault, the execution of any sentence shall be stayed pending the filing within three judicial days of a petition for extraordinary relief testing the lawfulness of the court's order, a violation of which is the basis for the contempt.

As used in this subdivision, "sexual assault" means any act made punishable by Section 261, 262, 264.1, 285, 286, 288, 288a, or 289 of the Penal Code.

(e) Notwithstanding Section 1211 or any other law, if an order of contempt is made affecting the victim of domestic violence, where the contempt consists of refusing to testify concerning that domestic violence, the execution of any sentence shall be stayed pending the filing within three judicial days of a petition for extraordinary relief testing the lawfulness of the court's order, a violation of which is the basis for the contempt.

As used in this subdivision, the term "domestic violence" means abuse perpetrated against any of the following:

(1) A spouse, former spouse, cohabitant, former cohabitant, any other adult person related by consanguinity or affinity within the second degree, or a person with whom the respondent has had a dating or engagement relationship.

(2) A person who is the parent of a child and the presumption applies that the male parent is the father of any child of the female pursuant to the Uniform Parentage Act (Part 7 (commencing with Section 7000) of Division 4 of the Civil Code).

SEC. 2. Section 546 of the Code of Civil Procedure is amended to read:

546. (a) The court may issue ex parte any of the orders set forth in subdivision (a) of Section 4359 of the Civil Code, or in the case of a nonmarital relationship between the plaintiff and the defendant any of the orders set forth in paragraphs (2), (3), and (6) of subdivision (a) of Section 4359 of the Civil Code and where there is a minor child of the plaintiff and the defendant an order determining the temporary custody of the child. In the case in which a temporary restraining order is granted without notice, the matter shall be made returnable on an order requiring cause to be shown why the order should not be dissolved, on the earliest day that the business of the court will permit, but not later than 20 days or, if good cause appears to the court, 25 days from the date the temporary restraining order is granted. The court may on motion of the plaintiff or on its own motion shorten the time for service on the defendant of the order to show cause.

The temporary restraining order shall set forth on its face a notice in substantially the following form:

"NOTICE TO DEFENDANT: If you do not appear at the court hearing specified herein, the court may grant the requested orders for a period of up to 3 years without further notice to you."

The court may issue an ex parte order pursuant to this subdivision, excluding one party from a residence or dwelling only when the affidavit in support of an application for the order affirmatively shows facts sufficient for the court to ascertain that the plaintiff has a right under color of law to possession of the premises.

(b) The presiding judge of the superior court in each county shall designate not less than one judge, commissioner, or referee to be reasonably available to orally issue, by telephone or otherwise, emergency protective orders at all times whether or not the superior court is in session. A judge, commissioner, or referee so designated may issue an ex parte emergency protective order when a police or sheriff's officer or a peace officer of the Department of Parks and Recreation, as defined in subdivision (h) of Section 830.2 of the Penal Code, asserts reasonable grounds to believe that a person is in immediate and present danger of domestic violence by a family or household member, based upon the person's allegation of a recent incident of abuse or threat of abuse by that family or household member. The order may consist of any of the orders set forth in paragraphs (2), (3), and (6) of subdivision (a) of Section 4359 of the

Civil Code, as well as an order determining the temporary care and control of any minor children of the endangered person and the person against whom the order is sought. The order shall be issued without prejudice to any party.

A judge, commissioner, or referee may issue an emergency protective order pursuant to this subdivision only upon a finding that reasonable grounds have been asserted to believe that an immediate and present danger of domestic violence exists and that an emergency protective order is necessary to prevent the occurrence or recurrence of domestic violence. The police or sheriff's officer or peace officer of the Department of Parks and Recreation, as defined in subdivision (g) of Section 830.2 of the Penal Code, requesting the order shall reduce it to writing, and shall sign the order. The order shall include all of the following:

(1) A statement of the grounds asserted for the order.

(2) The date and time the order expires.

(3) The address of the superior court for the district or county in which the endangered person resides.

(4) The following statement: "To the Protected Party: This order will last only until the date and time noted above. If you wish to seek continuing protection, you will have to apply for an order from the court, at the address noted above. You may seek the advice of an attorney as to any matter connected with your application for any future court orders. The attorney should be consulted promptly so that he or she may assist you in making your application. To the Restrained Party: This order will last until the date noted above. The protected party may, however, obtain a more permanent restraining order from the court. You may seek the advice of an attorney as to any matter connected with the application. The attorney should be consulted promptly so that he or she may assist you in responding to the application."

The Judicial Council shall prescribe the form of the order and any other documents required by this subdivision. The statement required in paragraph (4) shall be printed in English and Spanish.

The officer who requested the emergency protective order, while on duty, shall carry copies of the order.

The emergency protective order shall be served upon the restrained party by the officer, if the restrained party can reasonably be located, and a copy shall be given to the protected party. A copy also shall be filed with the court as soon as practicable after issuance.

An emergency protective order shall expire not later than the close of judicial business on the second day of judicial business following the day of its issue.

The availability of an emergency protective order shall not be affected by the fact that the endangered person has vacated the household to avoid abuse.

A police or sheriff's officer or peace officer of the Department of Parks and Recreation, as defined in subdivision (g) of Section 830.2 of the Penal Code, shall use every reasonable means to enforce an

emergency protective order issued pursuant to this subdivision. A police or sheriff's officer or peace officer of the Department of Parks and Recreation, as defined in subdivision (g) of Section 830.2 of the Penal Code, acting pursuant to this subdivision shall not be held civilly or criminally liable if he or she has acted in good faith with regard thereto.

(c) A judge, commissioner, or referee designated pursuant to subdivision (b) may issue an ex parte emergency protective order when a police or sheriff's officer asserts reasonable grounds to believe that a child is in immediate and present danger of abuse by a family or household member, based upon an allegation of a recent incident of abuse or threat of abuse by that family or household member. The order may consist of any of the orders authorized in Section 213.5 of the Welfare and Institutions Code, and may include provisions placing the temporary care and control of the endangered child and any other minor children in the family or household with the parent or legal guardian of the endangered child who is not a restrained party. The order shall expire not later than the close of judicial business on the second day of judicial business following the day of its issue. The order shall be issued without prejudice to any party.

A judge, commissioner, or referee may issue an emergency protective order pursuant to this subdivision only upon a finding that reasonable grounds have been asserted to believe that a child is in immediate and present danger of abuse and that an emergency protective order is necessary to prevent the occurrence or recurrence of abuse. The police or sheriff's officer requesting the order shall reduce it to writing, and shall sign the order. The order shall include all of the following:

(1) A statement of the grounds asserted for the order.

(2) The date and time the order expires.

(3) The address of the superior court for the district or county in which the endangered child resides.

(4) The following statement: "This order will last only until the date and time noted above. A more permanent restraining order under Section 213.5 of the Welfare and Institutions Code may be applied for from the court, at the address noted above. The advice of an attorney may be sought in connection with the application for a more permanent restraining order."

The parent or legal guardian of the endangered child who is not a restrained party, or any person having temporary custody of the endangered child, may apply for a more permanent restraining order under Section 213.5 of the Welfare and Institutions Code from the court.

The Judicial Council shall prescribe the form of the order and any other documents required by this subdivision. The statement required in paragraph (4) shall be printed in English and Spanish.

The officer who requested the emergency protective order, while on duty, shall carry copies of the order.

The emergency protective order shall be served upon the restrained party by the officer, if the restrained party can reasonably be located, and a copy shall be given to any parent or legal guardian of the endangered child who is not a restrained party, if he or she can be reasonably located, or to any person having temporary custody of the endangered child. A copy also shall be filed with the court as soon as practicable after issuance.

The availability of an emergency protective order shall not be affected by the endangered child's leaving the household to avoid abuse.

A police or sheriff's officer shall use every reasonable means to enforce an emergency protective order issued pursuant to this subdivision. A police or sheriff's officer acting pursuant to this subdivision shall not be held civilly or criminally liable if he or she has acted in good faith with regard thereto.

SEC. 3. Section 546 of the Code of Civil Procedure is amended to read:

546. (a) The court may issue ex parte any of the orders set forth in subdivision (a) of Section 4359 of the Civil Code, or in the case of a nonmarital relationship between the plaintiff and the defendant any of the orders set forth in paragraphs (2), (3), and (6) of subdivision (a) of Section 4359 of the Civil Code and where there is a minor child of the plaintiff and the defendant an order determining the temporary custody of the child. In the case in which a temporary restraining order is granted without notice, the matter shall be made returnable on an order requiring cause to be shown why the order should not be dissolved, on the earliest day that the business of the court will permit, but not later than 20 days or, if good cause appears to the court, 25 days from the date the temporary restraining order is granted. The court may on motion of the plaintiff or on its own motion shorten the time for service on the defendant of the order to show cause.

The temporary restraining order shall set forth on its face a notice in substantially the following form:

"NOTICE TO DEFENDANT: If you do not appear at the court hearing specified herein, the court may grant the requested orders for a period of up to 3 years without further notice to you."

The court may issue an ex parte order pursuant to this subdivision, excluding one party from a residence or dwelling only when the affidavit in support of an application for the order affirmatively shows facts sufficient for the court to ascertain that the plaintiff has a right under color of law to possession of the premises.

(b) The presiding judge of the superior court in each county shall designate not less than one judge, commissioner, or referee to be reasonably available to orally issue, by telephone or otherwise, emergency protective orders at all times whether or not the superior court is in session. A judge, commissioner, or referee so designated may issue an ex parte emergency protective order when a police or sheriff's officer or a peace officer of the Department of Parks and

Recreation, as defined in subdivision (h) of Section 830.2 of the Penal Code, asserts reasonable grounds to believe that a person is in immediate and present danger of domestic violence based upon the person's allegation of a recent incident of abuse or threat of abuse. The order may consist of any of the orders set forth in paragraphs (2), (3), and (6) of subdivision (a) of Section 4359 of the Civil Code, as well as an order determining the temporary care and control of any minor children of the endangered person and the person against whom the order is sought. The order shall be issued without prejudice to any party.

A judge, commissioner, or referee may issue an emergency protective order pursuant to this subdivision only upon a finding that reasonable grounds have been asserted to believe that an immediate and present danger of domestic violence exists and that an emergency protective order is necessary to prevent the occurrence or recurrence of domestic violence. The police or sheriff's officer or peace officer of the Department of Parks and Recreation, as defined in subdivision (h) of Section 830.2 of the Penal Code, requesting the order shall reduce it to writing, and shall sign the order. The order shall include all of the following:

(1) A statement of the grounds asserted for the order.

(2) The date and time the order expires.

(3) The address of the superior court for the district or county in which the endangered person resides.

(4) The following statement: "To the Protected Party: This order will last only until the date and time noted above. If you wish to seek continuing protection, you will have to apply for an order from the court, at the address noted above. You may seek the advice of an attorney as to any matter connected with your application for any future court orders. The attorney should be consulted promptly so that he or she may assist you in making your application. To the Restrained Party: This order will last until the date noted above. The protected party may, however, obtain a more permanent restraining order from the court. You may seek the advice of an attorney as to any matter connected with the application. The attorney should be consulted promptly so that he or she may assist you in responding to the application."

The Judicial Council shall prescribe the form of the order and any other documents required by this subdivision. The statement required in paragraph (4) shall be printed in English and Spanish.

The officer who requested the emergency protective order, while on duty, shall carry copies of the order.

The emergency protective order shall be served upon the restrained party by the officer, if the restrained party can reasonably be located, and a copy shall be given to the protected party. A copy also shall be filed with the court as soon as practicable after issuance.

An emergency protective order shall expire not later than the close of judicial business on the second day of judicial business following the day of its issue.

The availability of an emergency protective order shall not be affected by the fact that the endangered person has vacated the household to avoid abuse.

A police or sheriff's officer or peace officer of the Department of Parks and Recreation, as defined in subdivision (h) of Section 830.2 of the Penal Code, shall use every reasonable means to enforce an emergency protective order issued pursuant to this subdivision. A police or sheriff's officer or peace officer of the Department of Parks and Recreation, as defined in subdivision (h) of Section 830.2 of the Penal Code, acting pursuant to this subdivision shall not be held civilly or criminally liable if he or she has acted in good faith with regard thereto.

(c) A judge, commissioner, or referee designated pursuant to subdivision (b) may issue an ex parte emergency protective order when a police or sheriff's officer asserts reasonable grounds to believe that a child is in immediate and present danger of abuse by a family or household member, based upon an allegation of a recent incident of abuse or threat of abuse by that family or household member. The order may consist of any of the orders authorized in Section 213.5 of the Welfare and Institutions Code, and may include provisions placing the temporary care and control of the endangered child and any other minor children in the family or household with the parent or legal guardian of the endangered child who is not a restrained party. The order shall expire not later than the close of judicial business on the second day of judicial business following the day of its issue. The order shall be issued without prejudice to any party.

A judge, commissioner, or referee may issue an emergency protective order pursuant to this subdivision only upon a finding that reasonable grounds have been asserted to believe that a child is in immediate and present danger of abuse and that an emergency protective order is necessary to prevent the occurrence or recurrence of abuse. The police or sheriff's officer requesting the order shall reduce it to writing, and shall sign the order. The order shall include all of the following:

(1) A statement of the grounds asserted for the order.

(2) The date and time the order expires.

(3) The address of the superior court for the district or county in which the endangered child resides.

(4) The following statement: "This order will last only until the date and time noted above. A more permanent restraining order under Section 213.5 of the Welfare and Institutions Code may be applied for from the court, at the address noted above. The advice of an attorney may be sought in connection with the application for a more permanent restraining order."

The parent or legal guardian of the endangered child who is not a restrained party, or any person having temporary custody of the endangered child, may apply for a more permanent restraining order under Section 213.5 of the Welfare and Institutions Code from

the court.

The Judicial Council shall prescribe the form of the order and any other documents required by this subdivision. The statement required in paragraph (4) shall be printed in English and Spanish.

The officer who requested the emergency protective order, while on duty, shall carry copies of the order.

The emergency protective order shall be served upon the restrained party by the officer, if the restrained party can reasonably be located, and a copy shall be given to any parent or legal guardian of the endangered child who is not a restrained party, if he or she can be reasonably located, or to any person having temporary custody of the endangered child. A copy also shall be filed with the court as soon as practicable after issuance.

The availability of an emergency protective order shall not be affected by the endangered child's leaving the household to avoid abuse.

A police or sheriff's officer shall use every reasonable means to enforce an emergency protective order issued pursuant to this subdivision. A police or sheriff's officer acting pursuant to this subdivision shall not be held civilly or criminally liable if he or she has acted in good faith with regard thereto.

SEC. 4. Section 1219 of the Code of Civil Procedure is amended to read:

1219. (a) Except as provided in subdivisions (b) and (c), when the contempt consists of the omission to perform an act which is yet in the power of the person to perform, he or she may be imprisoned until he or she has performed it, and in that case the act shall be specified in the warrant of commitment.

(b) Notwithstanding any other law, no court may imprison or otherwise confine or place in custody the victim of a sexual assault for contempt when the contempt consists of refusing to testify concerning that sexual assault.

(c) In a finding of contempt for a victim of domestic violence who refuses to testify, the court shall not incarcerate the victim, but may require the victim to attend up to 72 hours of a domestic violence program for victims or require the victim to perform up to 72 hours of appropriate community service, provided that in a subsequent finding of contempt for refusing to testify arising out of the same case, the court shall have the option of incarceration pursuant to subdivision (a).

(d) As used in this section:

(1) "Sexual assault" means any act made punishable by Section 261, 262, 264.1, 285, 286, 288, 288a, or 289 of the Penal Code.

(2) "Domestic violence" means abuse perpetrated against any of the following:

(A) A spouse, former spouse, cohabitant, former cohabitant, any other adult person related by consanguinity or affinity within the second degree, or a person with whom the respondent has had a dating or engagement relationship.

(B) A person who is the parent of a child and the presumption applies that the male parent is the father of any child of the female pursuant to the Uniform Parentage Act (Part 7 (commencing with Section 7000) of Division 4 of the Civil Code).

SEC. 5. Section 1203.11 is added to the Penal Code, to read:

1203.11. A probation or parole officer or parole agent of the Department of Corrections may serve any process regarding the issuance of a temporary restraining order or other protective order against a person committed to the care of the probation or parole officer or parole agent when the person appears for an appointment with the probation or parole officer or parole agent at their office.

SEC. 6. Section 12028.5 of the Penal Code is amended to read:

12028.5. (a) As used in this section, the following definitions shall apply:

(1) "Abuse" means intentionally or recklessly causing or attempting to cause bodily injury, or placing another person in reasonable apprehension of imminent serious bodily injury to himself, herself, or another.

(2) "Domestic violence" is abuse perpetrated against any of the following:

(A) A spouse, former spouse, cohabitant, former cohabitant, any other adult person related by consanguinity or affinity within the second degree, or a person with whom the respondent has had a dating or engagement relationship.

(B) A person who is the parent of a child and the presumption applies that the male parent is the father of any child of the female pursuant to the Uniform Parentage Act (Part 7 (commencing with Section 7000) of Division 4 of the Civil Code).

(3) "Deadly weapon" means any weapon, the possession or concealed carrying of which is prohibited by Section 12020.

(b) A sheriff, undersheriff, deputy sheriff, marshal, deputy marshal, or police officer of a city, as defined in subdivision (a) of Section 830.1, a member of the University of California Police Department, as defined in subdivision (c) of Section 830.2, an officer listed in Section 830.6 while acting in the course and scope of his or her employment as a peace officer, a member of a California State University Police Department, as defined in subdivision (d) of Section 830.2, and a peace officer of the Department of Parks and Recreation, as defined in subdivision (g) of Section 830.2, who is at the scene of a domestic violence incident involving a threat to human life or a physical assault, may take temporary custody of any firearm or other deadly weapon in plain sight or discovered pursuant to a consensual search as necessary for the protection of the peace officer or other persons present. Upon taking custody of a firearm or other deadly weapon, the officer shall give the owner or person who possessed the firearm a receipt. The receipt shall describe the firearm or other deadly weapon and list any identification or serial number on the firearm. The receipt shall indicate where the firearm or other deadly weapon can be recovered and the date after which

the owner or possessor can recover the firearm or other deadly weapon. No firearm or other deadly weapon shall be held less than 48 hours. Except as provided in subdivision (e), if a firearm or other deadly weapon is not retained for use as evidence related to criminal charges brought as a result of the domestic violence incident or is not retained because it was illegally possessed, the firearm or other deadly weapon shall be made available to the owner or person who was in lawful possession 48 hours after the seizure or as soon thereafter as possible, but no later than 72 hours after the seizure. In any civil action or proceeding for the return of firearms or ammunition or other deadly weapon seized by any state or local law enforcement agency and not returned within 72 hours following the initial seizure, except as provided in subdivision (c), the court shall allow reasonable attorney's fees to the prevailing party.

(c) Any firearm or other deadly weapon which has been taken into custody which has been stolen shall be restored to the lawful owner, as soon as its use for evidence has been served, upon his or her identification of the firearm or other deadly weapon and proof of ownership.

(d) Any firearm or other deadly weapon taken into custody and held by a police, university police, or sheriff's department or by a marshal's office, or by a peace officer of the Department of Parks and Recreation, as defined in subdivision (g) of Section 830.2, for longer than 12 months and not recovered by the owner or person who has lawful possession at the time it was taken into custody, shall be considered a nuisance and sold or destroyed as provided in subdivision (c) of Section 12028. Firearms or other deadly weapons not recovered within 12 months due to an extended hearing process as provided in subdivision (i), are not subject to destruction until the court issues a decision, and then only if the court does not order the return of the firearm or other deadly weapon to the owner.

(e) In those cases where a law enforcement agency has reasonable cause to believe that the return of a firearm or other deadly weapon would be likely to result in endangering the victim or the person reporting the assault or threat, the agency shall advise the owner of the firearm or other deadly weapon, and within 10 days of the seizure, initiate a petition in superior court to determine if the firearm or other deadly weapon should be returned.

(f) The law enforcement agency shall inform the owner or person who had lawful possession of the firearm or other deadly weapon, at that person's last known address by registered mail, return receipt requested, that he or she has 30 days from the date of receipt of the notice to respond to the court clerk to confirm his or her desire for a hearing, and that the failure to respond shall result in a default order forfeiting the confiscated firearm or other deadly weapon. For the purposes of this subdivision, the person's last known address shall be presumed to be the address provided to the law enforcement officer by that person at the time of the domestic violence incident. In the event the person whose firearm or other deadly weapon was

seized does not reside at the last address provided to the agency, the agency shall make a diligent, good faith effort to learn the whereabouts of the person and to comply with these notification requirements.

(g) If the person requests a hearing, the court clerk shall set a hearing no later than 30 days from receipt of that request. The court clerk shall notify the person, the law enforcement agency involved, and the district attorney of the date, time, and place of the hearing. Unless it is shown by clear and convincing evidence that the return of the firearm or other deadly weapon would result in endangering the victim or the person reporting the assault or threat, the court shall order the return of the firearm or other deadly weapon and shall award reasonable attorney's fees to the prevailing party.

(h) If the person does not request a hearing or does not otherwise respond within 30 days of the receipt of the notice, the law enforcement agency may file a petition for an order of default and may dispose of the firearm or other deadly weapon as provided in Section 12028.

(i) If, at the hearing, the court does not order the return of the firearm or other deadly weapon to the owner or person who had lawful possession, that person may petition the court for a second hearing within 12 months from the date of the initial hearing. If the owner or person who had lawful possession does not petition the court within this 12-month period for a second hearing or is unsuccessful at the second hearing in gaining return of the firearm or other deadly weapon, the firearm or other deadly weapon may be disposed of as provided in Section 12028.

(j) The law enforcement agency, or the individual law enforcement officer, shall not be liable for any act in the good faith exercise of this section.

SEC. 7. Section 12028.5 of the Penal Code is amended to read:

12028.5. (a) As used in this section, the following definitions shall apply:

(1) "Abuse" means intentionally or recklessly causing or attempting to cause bodily injury, or placing another person in reasonable apprehension of imminent serious bodily injury to himself, herself, or another.

(2) "Domestic violence" is abuse perpetrated against any of the following:

(A) A spouse, former spouse, cohabitant, former cohabitant, any other adult person related by consanguinity or affinity within the second degree, or a person with whom the respondent has had a dating or engagement relationship.

(B) A person who is the parent of a child and the presumption applies that the male parent is the father of any child of the female pursuant to the Uniform Parentage Act (Part 7 (commencing with Section 7000) of Division 4 of the Civil Code).

(3) "Deadly weapon" means any weapon, the possession or concealed carrying of which is prohibited by Section 12020.

(b) A sheriff, undersheriff, deputy sheriff, marshal, deputy marshal, or police officer of a city, as defined in subdivision (a) of Section 830.1, a member of the University of California Police Department, as defined in subdivision (c) of Section 830.2, an officer listed in Section 830.6 while acting in the course and scope of his or her employment as a peace officer, a member of a California State University Police Department, as defined in subdivision (d) of Section 830.2, and a peace officer of the Department of Parks and Recreation, as defined in subdivision (g) of Section 830.2, and a member of a private postsecondary educational institution police department which has executed a memorandum of understanding between the local law enforcement agency and the institution pursuant to subdivision (c) of Section 830.32, who is at the scene of a domestic violence incident involving a threat to human life or a physical assault, may take temporary custody of any firearm or other deadly weapon in plain sight or discovered pursuant to a consensual search as necessary for the protection of the peace officer or other persons present. Upon taking custody of a firearm or other deadly weapon, the officer shall give the owner or person who possessed the firearm or other deadly weapon a receipt. The receipt shall describe the firearm or other deadly weapon and list any identification or serial number on the firearm. The receipt shall indicate where the firearm or other deadly weapon can be recovered and the date after which the owner or possessor can recover the firearm or other deadly weapon. No firearm or other deadly weapon shall be held less than 48 hours. Except as provided in subdivision (e), if a firearm or other deadly weapon is not retained for use as evidence related to criminal charges brought as a result of the domestic violence incident or is not retained because it was illegally possessed, the firearm or other deadly weapon shall be made available to the owner or person who was in lawful possession 48 hours after the seizure or as soon thereafter as possible, but no later than 72 hours after the seizure. In any civil action or proceeding for the return of firearms or ammunition or other deadly weapon seized by any state or local law enforcement agency and not returned within 72 hours following the initial seizure, except as provided in subdivision (c), the court shall allow reasonable attorney's fees to the prevailing party.

(c) Any firearm or other deadly weapon which has been taken into custody which has been stolen shall be restored to the lawful owner, as soon as its use for evidence has been served, upon his or her identification of the firearm or other deadly weapon and proof of ownership.

(d) Any firearm or other deadly weapon taken into custody and held by a police, university police, or sheriff's department or by a marshal's office, or by a peace officer of the Department of Parks and Recreation, as defined in subdivision (g) of Section 830.2, for longer than 12 months and not recovered by the owner or person who has lawful possession at the time it was taken into custody, shall be considered a nuisance and sold or destroyed as provided in

subdivision (c) of Section 12028. Firearms or other deadly weapons not recovered within 12 months due to an extended hearing process as provided in subdivision (i), are not subject to destruction until the court issues a decision, and then only if the court does not order the return of the firearm or other deadly weapon to the owner.

(e) In those cases where a law enforcement agency has reasonable cause to believe that the return of a firearm or other deadly weapon would be likely to result in endangering the victim or the person reporting the assault or threat, the agency shall advise the owner of the firearm or other deadly weapon, and within 10 days of the seizure, initiate a petition in superior court to determine if the firearm or other deadly weapon should be returned.

(f) The law enforcement agency shall inform the owner or person who had lawful possession of the firearm or other deadly weapon, at that person's last known address by registered mail, return receipt requested, that he or she has 30 days from the date of receipt of the notice to respond to the court clerk to confirm his or her desire for a hearing, and that the failure to respond shall result in a default order forfeiting the confiscated firearm or other deadly weapon. For the purposes of this subdivision, the person's last known address shall be presumed to be the address provided to the law enforcement officer by that person at the time of the domestic violence incident. In the event the person whose firearm or other deadly weapon was seized does not reside at the last address provided to the agency, the agency shall make a diligent, good faith effort to learn the whereabouts of the person and to comply with these notification requirements.

(g) If the person requests a hearing, the court clerk shall set a hearing no later than 30 days from receipt of that request. The court clerk shall notify the person, the law enforcement agency involved, and the district attorney of the date, time, and place of the hearing. Unless it is shown by clear and convincing evidence that the return of the firearm or other deadly weapon would result in endangering the victim or the person reporting the assault or threat, the court shall order the return of the firearm or other deadly weapon and shall award reasonable attorney's fees to the prevailing party.

(h) If the person does not request a hearing or does not otherwise respond within 30 days of the receipt of the notice, the law enforcement agency may file a petition for an order of default and may dispose of the firearm or other deadly weapon as provided in Section 12028.

(i) If, at the hearing, the court does not order the return of the firearm or other deadly weapon to the owner or person who had lawful possession, that person may petition the court for a second hearing within 12 months from the date of the initial hearing. If the owner or person who had lawful possession does not petition the court within this 12-month period for a second hearing or is unsuccessful at the second hearing in gaining return of the firearm or other deadly weapon, the firearm or other deadly weapon may be

disposed of as provided in Section 12028.

(j) The law enforcement agency, or the individual law enforcement officer, shall not be liable for any act in the good faith exercise of this section.

SEC. 8. Section 8102 of the Welfare and Institutions Code is amended to read:

8102. (a) Whenever a person who has been detained or apprehended for examination of his or her mental condition or who is a person described in Section 8100 or 8103, is found to own, have in his or her possession or under his or her control, any firearm whatsoever, or any other deadly weapon, the firearm or other deadly weapon shall be confiscated by any law enforcement agency or peace officer, who shall retain custody of the firearm or other deadly weapon.

"Deadly weapon," as used in this section, has the meaning prescribed by Section 8100.

(b) Upon confiscation of any firearm or other deadly weapon from a person who has been detained or apprehended for examination of his or her mental condition, the peace officer or law enforcement agency shall notify the person of the procedure for the return of any firearm or other deadly weapon which has been confiscated.

Where the person is released without judicial commitment, the professional person in charge of the facility, or his or her designee, shall notify the person of the procedure for the return of any firearm or other deadly weapon which may have been confiscated.

Health facility personnel shall notify the confiscating law enforcement agency upon release of the detained person, and shall make a notation to the effect that the facility provided the required notice to the person regarding the procedure to obtain return of any confiscated firearm.

(c) Upon the release of a person without judicial commitment as described in subdivision (b), the confiscating law enforcement agency shall have 10 days, unless good cause is shown, to initiate a petition in the superior court for a hearing to determine whether the return of a firearm or other deadly weapon would be likely to result in endangering the person or others, and to send a notice advising the person of his or her right to a hearing on this issue.

(d) The law enforcement agency shall inform the person that he or she has 30 days to respond to the court clerk to confirm his or her desire for a hearing, and that the failure to respond will result in a default order forfeiting the confiscated firearm or weapon. For the purpose of this subdivision, the person's last known address shall be the address provided to the law enforcement officer by the person at the time of the person's detention or apprehension.

(e) If the person responds and requests a hearing, the court clerk shall set a hearing, no later than 30 days from receipt of the request. The court clerk shall notify the person and the district attorney of the date, time, and place of the hearing.

(f) If the person does not respond within 30 days of the notice, the law enforcement agency may file a petition for order of default.

(g) If the law enforcement agency does not initiate proceedings within the 10-day period, it shall make the weapon available for return.

SEC. 9. Section 3 of this bill incorporates amendments to Section 546 of the Code of Civil Procedure proposed by both this bill and AB 108. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1992, (2) each bill amends Section 546 of the Code of Civil Procedure, and (3) this bill is enacted after AB 108, in which case Section 546 of the Code of Civil Procedure, as amended by AB 108, shall remain operative only until the operative date of this bill, at which time Section 3 of this bill shall become operative, and Section 2 of this bill shall not become operative.

SEC. 10. Section 7 of this bill incorporates amendments to Section 12028.5 of the Penal Code proposed by both this bill and SB 1126. It shall only become operative if (1) both bills are enacted and become effective January 1, 1992, (2) each bill amends Section 12028.5 of the Penal Code, and (3) this bill is enacted after SB 1126, in which case Section 6 of this bill shall not become operative.

SEC. 11. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 867

An act to amend Sections 1596.806, 1596.842, 1596.855, 1596.871, and 1596.96 of, and to repeal and add Section 1596.869 of, the Health and Safety Code, relating to child care programs.

[Approved by Governor October 11, 1991. Filed with Secretary of State October 14, 1991.]

The people of the State of California do enact as follows:

SECTION 1. Section 1596.806 of the Health and Safety Code is amended to read:

1596.806. (a) A room used as a classroom by a schoolage child

care program shall not be required to meet the square footage or toilet requirements for child day care centers if the program is operated on either of the following:

(1) A functioning schoolsite in the same facilities that have housed school children during the day, before or after school hours, or before and after school hours.

(2) A functioning schoolsite in facilities certified as usable as a classroom for instruction. A building owned by a school district, the state, or the schoolage child care program may meet the certification requirement if either of the following is provided to the department:

(A) Evidence that the building was approved as a classroom by the office of the State Architect.

(B) A certification statement signed by the superintendent of the schools, or his or her designee, in the district where the schoolage child care program is located, that the classroom building is of sufficient size to accommodate public instruction. The school district may make this certification regardless of the ownership of the classroom.

(b) School grounds, other than rooms used as classrooms, used by a schoolage child care program operated on a functioning schoolsite pursuant to either paragraph (1) or (2) of subdivision (a) shall be exempt from all of the following requirements imposed by the department on child day care facilities:

(1) Fencing, outdoor activity space, toilet, and isolation space requirements.

(2) Requirements to have exclusive use of the outdoor activity space or exclusive use of children's rest rooms also used by students located on school grounds.

(c) The exemptions pursuant to subdivisions (a) and (b) shall continue during school vacation and intersession periods.

(d) For purposes of this section, "schoolage child care program" means a program for children who are four years and nine months or older and are currently enrolled in a school or are dependent children living within the same household as a child attending a school, operated by an entity that contracts with the school to provide staff and program. "Schoolage child care program" includes, but is not limited to, a program pursuant to Article 22 (commencing with Section 8460) or Article 23 (commencing with Section 8485) of Chapter 2 of Part 6 of the Education Code.

SEC. 2. Section 1596.842 of the Health and Safety Code is amended to read:

1596.842. Following approval by the department of a list of provider rights, the Community Care Licensing Division shall print and distribute in person, to individuals or to groups, and by other appropriate methods of distribution, a list of provider rights which shall include, but not be limited to, the following:

(a) Site visit rights:

(1) The right to require licensing field staff to identify themselves.

(2) The right to be advised of the type of the visit, whether

renewal, complaint, plan of correction, prelicensing, or some other type. When a site visit is made to investigate a complaint, the site visit rights described in paragraphs (4) and (9) shall be applicable at the completion of the investigation.

(3) The right to be treated as a professional and with dignity and respect.

(4) The right to receive an accurate report of the evaluator's findings listing each observed deficiency. Each deficiency shall be separately numbered, so as to clearly indicate the number of deficiencies, shall be accompanied by a number which corresponds to a section of law or licensing regulation, and shall include a description of the evaluator's observation which led to the finding of a deficiency. The description of the evaluator's observation shall include a clear explanation of why the existing condition constitutes a deficiency, unless the description of the observation provides such an explanation.

(5) The right to review licensing laws, regulations, and policy.

(6) The right to an impartial investigation of all complaints.

(7) The right, at the time of the visit, to determine and develop a plan of correction for deficiencies cited.

(8) The right to use the licensing report (LIC 809) as a means to agree or disagree with cited deficiencies.

(9) The right to an exit interview upon completion of the visit and to receive a signed copy of the LIC 809.

(10) The right to be informed on the LIC 809 of the evaluator's supervisor and his or her telephone number.

(11) The right of access to the public file on any facility and the right to purchase a copy at a reasonable cost.

(b) Initial appeal rights:

(1) The right, without prejudice, to appeal any decision, any failure to act according to law or regulation, or any failure to act within any specified timeline, through the licensing agency up to the deputy director.

(2) The right to request a meeting with district office administrators to discuss any licensing issue and with notice to bring any person to the meeting.

(3) The right to due process and the option of bringing a representative to any administrative action.

(c) The right to file a formal complaint, and receive a written response to that complaint within 30 days, for any licensing issue not covered by subdivision (b), including, but not limited to, inappropriate behavior of department employees.

(d) The department shall, by June 30, 1992, mail to all licensees a copy of this section and a full and complete copy of the appeals procedure developed to implement subdivision (b).

(e) The department shall, on all forms it requires or recommends that providers use, all notices of regulations or departmental policy, and all notices to implement this section, clearly label the department as the source of the material, including the name of the

department, the name of the division responsible for implementing this chapter, and the address of that division.

SEC. 3. Section 1596.855 of the Health and Safety Code is amended to read:

1596.855. (a) Upon attendance at an orientation meeting, as described in Section 1596.845, an applicant shall be provided, without charge, a printed copy of all applicable regulations by the department, a copy of Section 1596.842, and a copy of the appeals procedure specified in subdivision (b) of Section 1596.842.

(b) The department shall mail, without charge, printed copies of all revisions of regulations to all resource and referral programs funded under Section 8210 of the Education Code, and to any association of child care agencies which requests to receive revisions of regulations.

SEC. 4. Section 1596.869 of the Health and Safety Code is repealed.

SEC. 5. Section 1596.869 is added to the Health and Safety Code, to read:

1596.869. Directors of combination child day care facilities shall be included in the teacher-child ratio during periods when they are actively supervising children and on the same basis that any other director of a day care center may be included in the teacher-child ratio.

SEC. 6. Section 1596.871 of the Health and Safety Code is amended to read:

1596.871. It is the intent of the Legislature in enacting this section to require the fingerprints of those individuals whose contact with child day care facility clients may pose a risk to the children's health and safety.

(a) Before issuing a license or special permit to any person to operate or manage a day care facility, the department shall secure from an appropriate law enforcement agency a criminal record to determine whether the applicant or any other person specified in subdivision (b) has ever been convicted of a crime other than a minor traffic violation. No fee shall be charged by the Department of Justice or the department for the fingerprinting of an applicant who will serve six or fewer children or any family day care applicant for a license, or for obtaining a criminal record of such an applicant pursuant to this section. If it is found that the applicant or any other person specified in subdivision (b) has been convicted of a crime, other than a minor traffic violation, the application shall be denied, unless the director grants an exemption pursuant to subdivision (e).

(b) In addition to the applicant, this section shall be applicable to criminal convictions of the following persons:

(1) Adults responsible for administration or direct supervision of staff.

(2) Any person, other than a child, residing in the facility.

(3) Any person who provides care and supervision to the children.

(4) Any staff person or employee who has frequent and routine

contact with the children. In determining who has frequent contact, any volunteer who is in the facility shall be exempt unless the volunteer is used to replace or supplement staff in providing direct care and supervision of children in care. In determining who has routine contact, staff and employees under direct onsite supervision and who are not providing direct care and supervision or who have only occasional or intermittent contact with clients shall be exempt.

(5) If the applicant is a firm, partnership, association, or corporation, the chief executive officer, other person serving in like capacity, or a person designated by the chief executive officer as responsible for the operation of the facility.

(6) Additional officers of the governing body of the applicant, or other persons with a financial interest in the applicant, as determined necessary by the department by regulation. The criteria used in the development of these regulations shall be based on the person's capability to exercise substantial influence over the operation of the facility.

(7) This section does not apply to adult volunteers or adult staff employed by the applicant on an intermittent basis for less than 10 days per month, provided that these adults are under constant supervision by adults who meet the requirements of this section.

(8) This section does not apply to employees of child care and development programs under contract with the State Department of Education who have completed a criminal records clearance as part of an application to the Commission on Teacher Credentialing, and who possess a current credential or permit issued by the commission. The Commission on Teacher Credentialing shall notify the department upon revocation of a current credential or permit issued to an employee of a child care and development program under contract with the State Department of Education.

(c) Subsequent to initial licensure, any person specified in subdivision (b) and not exempted from fingerprinting shall, as a condition to employment, residence, or presence in a child day care facility be fingerprinted and sign a declaration under penalty of perjury regarding any prior criminal conviction. The licensee shall submit these fingerprints to the licensing agency not later than four calendar days following employment, residence, or initial presence in the child day care facility.

Within 10 working days of the receipt of these fingerprints, the State Department of Social Services shall submit them to the Department of Justice. If new fingerprints are required for processing, the department shall notify the licensee within five working days of receipt of the fingerprints. If the department has not received the information required by this section within 45 calendar days, it shall request a status report on the fingerprint clearance from the Department of Justice. Within five working days of the receipt of the criminal record or information regarding criminal convictions from the Department of Justice, the department shall notify the licensee of the criminal convictions, as provided in this subdivision.

If no convictions are recorded, the department shall provide the licensee with a statement of the fact that there are no convictions within 10 working days of receipt of this information from the Department of Justice. If new fingerprints are required for processing, the State Department of Social Services shall notify the licensee within five working days from the date of notification by the Department of Justice that the fingerprints were illegible.

Except for persons specified in paragraph (2) of subdivision (b), the licensee shall endeavor to ascertain the previous employment history of persons required to be fingerprinted under this subdivision. If it is determined by the department, on the basis of fingerprints submitted to the Department of Justice, that the person has been convicted of a sex offense against a minor, or has been convicted of an offense specified in Section 243.4, 273a, 273d, or subdivision (a) or (b) of Section 368 of the Penal Code, or has been convicted of a felony, the State Department of Social Services shall notify the licensee to act immediately to terminate the person's employment, remove the person from the child day care facility, or bar the person from entering the child day care facility. The department may subsequently grant an exemption pursuant to subdivision (e). If the conviction was for another crime except a minor traffic violation, the licensee shall, upon notification by the State Department of Social Services, act immediately to either (1) terminate the person's employment, remove the person from the child day care facility, or bar the person from entering the child day care facility; or (2) seek an exemption pursuant to subdivision (e). The department shall determine if the person shall be allowed to remain in the facility until a decision on the exemption is rendered.

(d) For purposes of this section or any other provision of this chapter, a conviction means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action which the department is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, notwithstanding a subsequent order pursuant to Sections 1203.4 and 1203.4a of the Penal Code permitting the person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or indictment. For purposes of this section or any other provision of this chapter, the record of a conviction, or a copy thereof certified by the clerk of the court or by a judge of the court in which the conviction occurred, shall be conclusive evidence of the conviction.

(e) After review of the record, the director may grant an exemption from disqualification for a license or special permit pursuant to subdivision (a), or for employment, residence, or presence in a child day care facility as specified in subdivision (c) if the director has substantial and convincing evidence to support a

reasonable belief that the applicant and the person convicted of the crime, if other than the applicant, are of such good character as to justify issuance of the license or special permit or granting an exemption for purposes of subdivision (c). However, no exemption shall be granted pursuant to this subdivision if the conviction was for an offense specified in Section 220, 243.4, or 264.1, or paragraph (1) of Section 273a or 273d, or Section 288, 289, or subdivision (a) or (b) of Section 368 of the Penal Code, or was a conviction of another crime against an individual specified in subdivision (c) of Section 667.5 of the Penal Code.

(f) Upon request of the licensee, who shall enclose a self-addressed stamped postcard for this purpose, the department shall verify receipt of the fingerprints.

(g) For the purposes of compliance with this section, the department shall permit an individual to transfer a current criminal records clearance, as defined in subdivision (a), from one facility to another, as long as the criminal record clearance has been processed through a state licensing district office, and is being transferred from one licensed facility to another licensed facility within that office or is being transferred to another state licensing district office. The individual or the applicant shall provide the name and address of the former facility or the license number of the former facility when requesting a transfer of criminal records clearance.

SEC. 7. Section 1596.96 of the Health and Safety Code is amended to read:

1596.96. (a) The department and the licensing agencies with which it contracts for licensing shall review and make a final determination within 60 days of an applicant's submission of a complete application on all applications for a license to operate a day care facility for children by an organization which possesses a current valid license to operate a day care facility for children at another site. Applicants shall note on the application, or in a cover letter to the application, that they possess a current valid license at another site, and the number of that license.

(b) The department shall request a fire safety clearance from the appropriate fire marshal within five days of receipt of an application described in subdivision (a). The department shall request criminal records clearance within five days of receipt of an application described in subdivision (a), unless the clearance requirement has been otherwise satisfied by transfer of clearance under subdivision (g) of Section 1596.871.

(c) If the department for any reason is unable to comply with subdivision (a), it shall, within 60 days of receipt of the application described in subdivision (a), grant a provisional license to the applicant to operate for a period not to exceed six months. While the provisional license is in effect, the department shall continue its investigation and make a final determination on the application before the provisional license expires. The provisional license shall be granted, provided the department knows of no life safety risks,

the criminal records clearances, if applicable, are complete, and the fire safety clearance is complete. The director may extend the term of a provisional license for an additional six months at the time of the application, if the director determines that more than six months will be required to achieve full compliance with licensing standards due to circumstances beyond the control of the applicant, and if all other requirements for a license have been met.

(d) If the department does not issue a provisional license pursuant to subdivision (c), the department shall issue a notice to the applicant identifying whether the provisional license has not been issued due to the existence of a life safety risk, lack of a fire safety clearance, lack of a criminal records clearance, failure to complete the application, or any combination of these reasons. If a life safety risk is identified, the risk preventing the issuance of a provisional license shall be clearly explained. If a lack of the fire safety clearance or lack of criminal records clearance is identified, the notice shall include the dates on which the department requested the clearance and the current status of those requests, the fire marshal's name and telephone number to whom a fire safety clearance request was sent, and the names of individuals for whom criminal records clearances are lacking. If failure to complete the application is identified, the notice shall list all of the forms or attachments which are missing or incorrect. This notice shall be sent to the applicant no later than 60 days after the applicant filed the application. If the reasons identified in the notice are corrected, the department shall issue the provisional license within five days after the corrections are made.

(e) The department shall, immediately after January 1, 1992, develop expedited procedures necessary to implement subdivisions (a), (b), (c), and (d).

(f) The department shall, immediately after January 1, 1992, develop an appeal procedure for applicants under this section for both denial of licenses and delay in processing applications.

CHAPTER 868

An act to amend Section 16500.5 of the Welfare and Institutions Code, relating to public assistance, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 11, 1991. Filed with Secretary of State October 14, 1991.]

The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares all of the following:

(a) Intensive in-home family preservation programs can reduce

the cost of foster care by keeping families together.

(b) Local child welfare social workers are constrained in their efforts to keep families together and avoid foster care placement for abused children because there are insufficient in-home services available at the county level for these children and their families.

(c) According to estimates by the State Department of Social Services, 63,800 children will reside in foster care in the 1990–91 fiscal year due to abuse and neglect. This figure is 76 percent higher than the number of children placed in foster care in the 1985–86 fiscal year.

(d) It is the policy of the State of California that abused and neglected children should be served in their own homes whenever possible in order to prevent foster care placement and to preserve family unity, and that reasonable efforts be made to prevent the need for out-of-home placement.

(e) Preliminary results of implementation of the family preservation services programs pursuant to Section 16500.5 of the Welfare and Institutions Code have shown that the programs are successful in reducing both the number of children placed and the cost to the state, paid from the General Fund, for services to these children and their families.

(f) It is imperative that the State of California recognize that its efforts to keep families safely together and prevent foster care placement will continue to be severely hampered unless the availability of family-centered services is increased at the local level so that alternatives to foster care placement are readily available.

SEC. 2. Section 16500.5 of the Welfare and Institutions Code is amended to read:

16500.5. (a) (1) The Legislature hereby declares its intent to encourage the continuity of the family unit by:

(A) Providing services to families to avoid or limit out-of-home placement of children through a family preservation program serving children who are at imminent risk of placement and would be eligible for AFDC-FC if they were placed out of their own homes.

(B) Providing supportive services for those children within the meaning of Sections 361 and 364 when they are returned to the family unit or when a minor will probably soon be within the jurisdiction of the juvenile court pursuant to Section 330.

(C) Providing counseling and support designed to eradicate the situation that necessitated intervention.

(2) The Legislature finds that maintaining abused and neglected children in foster care grows increasingly costly each year, and that adequate funding for family services which might enable these children to remain in their homes is not as readily available as funding for foster care placement.

(3) The Legislature further finds that other state bodies have addressed this problem through various systems of flexible reimbursement in child welfare programs that provide for more intensive and appropriate services to prevent foster care placement

or significantly reduce the length of stay in foster care.

(4) Accordingly, it is the intent of the Legislature in enacting this section to establish a system of flexible reimbursement in order to evaluate its potential as an efficient, economical, and effective alternative to out-of-home placement of children.

(b) (1) (A) (i) Any county, subject to the approval of the State Department of Social Services, may claim, on an annual basis, a portion of the state's share, and to the extent permitted, the federal share, of that county's AFDC-FC expenditures pursuant to subdivision (d) of Section 11450 for children subject to Sections 300, 330, 361, and 364, in advance, provided the county conducts a program of family reunification and family maintenance services for families receiving these services pursuant to Sections 300, 330, 364, and, as permitted by the department, children subject to Sections 601, 602, 726, and 727 of this code, and Section 7572.5 of the Government Code.

(ii) The department or a participating county may terminate a county's participation in the program upon 30 days' notice if the project is deemed unsuccessful by either party.

(iii) For each fiscal year, a participating county may claim in advance an amount not to exceed an actual dollar amount which shall not exceed 25 percent of the projected state's share, and to the extent permitted, the federal share, of AFDC-FC funds to be expended by that county pursuant to subdivision (d) of Section 11450 for children subject to Sections 300, 330, 361, and 364.

(iv) The specific amount of funds to be advanced each year shall be determined by projecting the state share of AFDC-FC General Fund expenditures, and to the extent permitted, the federal share of AFDC-FC expenditures for abused or neglected children supervised and placed by the county welfare department pursuant to Sections 300, 330, 361, and 364, for each of the program years based upon state, and to the extent permitted, federal expenditures for AFDC-FC for the previous five years.

(B) If the county's total AFDC-FC General Fund expenditures and, to the extent permitted, the federal share of AFDC-FC expenditures, added to the amount expended from the advance to the county exceeds, by more than 5 percent, the county's total projected AFDC-FC General Fund expenditures and, to the extent permitted, the federal share of AFDC-FC expenditures for that fiscal year, the county shall fund that portion of the overage in excess of 5 percent on a 100 percent basis. If the sum of a participating county's total AFDC-FC General Fund expenditures and, to the extent permitted, the federal share of AFDC-FC expenditures for their children, added to the amount expended from the advance to the county, is less than the total projected AFDC-FC General Fund expenditures and, to the extent permitted, the federal share of AFDC-FC expenditures for their children for that fiscal year, the county shall receive 25 percent of the amount of the savings.

(2) A participating county's share of expenditures in excess of the

projected total may be reduced upon approval of the department and the Department of Finance based on consideration of any unanticipated factors which result in higher than projected AFDC-FC expenditures for children described in subparagraph (A) of paragraph (1). These factors may include, but need not be limited to, all of the following:

(A) The impact of substance abuse.

(B) Poverty and economic indicators.

(C) Modifications of statutes and regulations.

(3) Services which may be provided under this program may include, but are not limited to, counseling, mental health treatment and substance abuse treatment services, parenting, respite, day treatment, transportation, and homemaking. Each county that chooses to provide mental health treatment and substance abuse treatment shall identify and develop these services in consultation with county mental health treatment and substance abuse treatment agencies. Additional services may include those enumerated in Sections 16506.1 and 16507.1. The services to be provided pursuant to this section may be determined by each participating county. Each county may contract with individuals and organizations for services to be provided pursuant to this section. Each county shall utilize available private nonprofit resources in the county prior to developing new county-operated resources when these private nonprofit resources are of at least equal quality and costs as county-operated resources and shall utilize available county resources of at least equal quality and cost prior to new private nonprofit resources.

(4) Participating counties authorized by this subdivision shall provide specific programs of direct services based on individual family needs as reflected in the service plans to families of the following:

(A) Children who are dependent children not taken from physical custody of their parents or guardians pursuant to Section 364.

(B) Children who are dependent children removed from the physical custody of their parents or guardian pursuant to Section 361.

(C) Children who it is determined will probably soon be within the jurisdiction of the juvenile court pursuant to Section 330.

(D) Upon approval of the department, children who have been adjudged wards of the court pursuant to Sections 601 and 602.

(E) Upon approval of the department, families of children subject to Sections 726 and 727.

(F) Upon approval of the department, children who are determined to require out-of-home placement pursuant to Section 7572.5 of the Government Code.

(5) The services shall only be provided to families whose children will be placed in out-of-home care without the provision of services or to be children who can be returned to their families with the provision of services.

(6) The services selected by any participating county shall be reasonable and meritorious and shall demonstrate cost effectiveness and success at avoiding out-of-home placement, or reducing the length of stay in out-of-home placement. A county shall not expend more funds for services under this subdivision than that amount which would be expended for placement in out-of-home care.

(7) The program in each county shall be deemed successful if it meets the following standards:

(A) At least 75 percent of the children receiving services remain in their own home for six months after termination of services.

(B) During the first year after services are terminated:

(i) At least 60 percent of the children receiving services remain at home one year after services are terminated.

(ii) The average length of stay in out-of-home care of children selected to receive services who have already been removed from their home and placed in out-of-home care is 50 percent less than the average length of stay in out-of-home care of children who do not receive program services.

(C) Two years after the termination of family preservation services:

(i) The average length of out-of-home stay of children selected to receive services under this section who, at the time of selection, are in out-of-home care, is 50 percent less than the average length of stay in out-of-home care for children in out-of-home care who do not receive services pursuant to this section.

(ii) At least 60 percent of the children who were returned home pursuant to this section remain at home.

(8) Funds used for services provided under this section shall supplement, not supplant, child welfare services funds available for services pursuant to Sections 16506.1 and 16507.1.

(9) Each county participating in the program authorized by this section shall only continue to utilize the advance fund-claiming mechanism specified in paragraph (1) if the department finds the county has demonstrated the successful outcome of the county program, based on the criteria for success specified in paragraph (7).

(10) The department shall submit a report to the Legislature that includes data from each participating county demonstrating to what extent each has met the criteria specified in this section. An interim report shall be submitted by the department no later than six months after the conclusion of the three pilot projects with a final report to be submitted after pilot project completion. Programs authorized after the original pilot projects shall submit data to the department upon the department's request. Subsequent reports to the Legislature on the programs administered pursuant to this section shall be included with the child welfare system report to the Legislature.

(c) (1) A county welfare department social worker or probation officer may, pursuant to an appropriate court order, return a dependent minor or ward of the court removed from the home

pursuant to Section 361 to his or her home, with appropriate interagency family preservation program services.

(2) The county probation department may, with the approval of the State Department of Social Services, through an interagency agreement with the county welfare department, refer cases to the county welfare department for the direct provision of services under this subdivision.

(d) State foster care funds shall remain within the administrative authority of the county welfare department and shall be used only for placement services or placement prevention services or county welfare department administrative cost related to the interagency family preservation program.

(e) To the extent permitted by federal law, any federal funds provided for services to families and children may be utilized for the purposes of this section.

(f) A county may establish family preservation programs that serve one or more geographic areas of the county, subject to the approval of the State Department of Social Services.

SEC. 3. The Director of Finance, upon notification of the Joint Legislative Budget Committee and a determination that expansion of projects authorized by Section 16500.5 of the Welfare and Institutions Code will result in savings to the General Fund, may authorize the transfer of funds from subdivision (a) of Item 5180-101-001 of the Budget Act of 1991, Chapter 118 of the Statutes of 1991, as follows:

(a) An amount, cumulatively not to exceed three hundred eighty thousand dollars ($380,000) to subdivision (b) of Item 5180-001-001, to monitor and evaluate existing family maintenance and family reunification services as part of a program established by Section 16500.5 of the Welfare and Institutions Code and to review, approve, and evaluate new county programs established under this section pursuant to Chapter 91 of the Statutes of 1991. The amount of the transfer shall be determined based on projected workload data submitted by the State Department of Social Services.

(b) An amount, cumulatively not to exceed twenty million dollars ($20,000,000) to paragraph (1) of subdivision (a) of Item 5180-151-001, Social Services Program-Child Welfare Services, in order to advance funds to counties to conduct a program of family reunification and family maintenance services pursuant to Section 16500.5 of the Welfare and Institutions Code.

SEC. 4. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to provide the widest range of emergency services to distressed children and families as soon as possible, and to rapidly initiate services to prevent the disruption or destruction of the family unit, it is necessary for this act to take effect immediately.

CHAPTER 869

An act to add Sections 11011.16 and 14660.1 to the Government Code, relating to state property, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 11, 1991. Filed with Secretary of State October 14, 1991.]

The people of the State of California do enact as follows:

SECTION 1. Section 11011.16 is added to the Government Code, to read:

11011.16. The inventory prepared pursuant to Section 11011.15 shall contain the following additional information:

(a) A description of the exact current and projected use of, and the extent of the use for, each property included therein that has been identified by the Department of General Services as warranting further development consideration.

(b) An estimated value for each property located in a metropolitan area that either has commercial applications or is not currently in use or has no projected use and that has been identified by the department as warranting further development consideration.

SEC. 2. Section 14660.1 is added to the Government Code, to read:

14660.1. (a) Notwithstanding subdivision (b) of Section 14669, the Director of General Services, on behalf of the state, may enter into an agreement to convert an existing lease or leases for real property located in the City of Sacramento into a lease-purchase agreement for the purpose of acquiring office and parking facilities, and any other improvements, betterments, and facilities related thereto to provide office space for any state agency. The total purchase price, excluding financing costs, shall not exceed the market value as determined by the Department of General Services. The state may incur costs of financing, including, but not limited to, interest during acquisition of these facilities, interest payable on any interim loan from the Pooled Money Investment Account pursuant to Section 16312 or 16313, a reasonably required reserve fund, and the costs of issuance of interim financing or permanent financing, planning funds, and funds for environmental documents that may be necessary for acquisition of these facilities.

(b) The Director of General Services may proceed with acquisition pursuant to subdivision (a) if the total cost through ownership based on an analysis of savings to the state over a period commensurate with the useful life of the building, including the factoring in of the cost of the building, is determined to be of significant savings to the state. In order to ensure that the requirements of this subdivision are met, the Department of General

Services shall provide, through the Department of Finance, the Joint Legislative Budget Committee with a report concerning the cost-effectiveness required by this subdivision prior to entering into any lease-purchase agreement at which point the chairperson of the committee may recommend in favor of or against entering into the agreement. The report shall also include information regarding the quality of construction of the building, including seismic safety, handicap access, and other standards required of a state-occupied building.

(c) Revenue bonds, negotiable notes, and negotiable bond anticipation notes may be issued by the State Public Works Board pursuant to the State Building Construction Act of 1955 (Part 10b (commencing with Section 15800)), to finance the acquisition of an office building and parking facilities, and any other improvements, betterments, and facilities related thereto, as specified in subdivision (a).

(d) The amount of the revenue bonds, negotiable notes, or negotiable bond anticipation notes to be sold shall equal the cost of acquisition and related costs, including financing, of the complex and facilities.

(e) The amount of negotiable bond anticipation notes sold shall not exceed the amount of revenue bonds and negotiable notes authorized by this section. Any augmentation of the approved project costs shall be subject to Section 13332.11. The board may borrow funds for project costs from the Pooled Money Investment Account pursuant to Section 16312 or 16313.

(f) The Director of General Services may lease the complex and facilities financed with the proceeds of the revenue bonds, negotiable notes, or negotiable bond anticipation notes from the board pursuant to this section for use by any state agency.

(g) The Director of General Services shall not utilize this section for more than one project as outlined in the report provided for in subdivision (b). Any other agreements shall be entered into as otherwise provided for in this article.

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

The state is currently obligated pursuant to a long-term lease to occupy a newly constructed office building and facilities related thereto. Occupancy of the building is imminent upon completion of tenant improvements. The conversion of the state's lease obligation to a lease-purchase obligation will provide significant cost savings to the state over the term of the lease and future savings from state ownership of valuable office space. In order for the state to take advantage of the potential cost savings and to improve the state's real property inventory, it is necessary that this act go into effect immediately.

CHAPTER 870

An act to amend Section 2836.1 of, and to add Section 2746.51 to, the Business and Professions Code, and to add Sections 10353 and 11512.07 to the Insurance Code, relating to nursing, and making an appropriation therefor.

[Approved by Governor October 11, 1991. Filed with Secretary of State October 14, 1991.]

The people of the State of California do enact as follows:

SECTION 1. (a) The Legislature finds and declares all of the following:

(1) The protection and promotion of the people of California, including the prevention of disease, is a goal shared by all Californians.

(2) In order to progress toward this goal, comprehensive, quality perinatal health care services must be readily available to mothers and their infants.

(3) Perinatal health care services help promote the health of the mother during and after pregnancy and seek to ensure the health of the baby.

(4) The promotion of maternal-child health represents a potentially immense savings to the people of California in both human and financial terms, since it means health promotion and disease prevention at the earliest possible time.

(5) An important resource for quality perinatal services currently exists in California in the state's certified nurse-midwives and nurse practitioners.

(6) These health care providers are already skilled, trained, and licensed to deliver a broad range of perinatal services, and currently provide these services in a wide variety of settings.

(7) Fuller access to these providers, however, is often blocked by factors, such as a lack of reimbursement for their services and a lack of authority for them to prescribe needed medications.

(b) In enacting this act, it is the intent of the Legislature to provide expectant and new mothers fuller access to much needed perinatal health care services.

SEC. 2. Section 2746.51 is added to the Business and Professions Code, to read:

2746.51. Neither this chapter nor any other provision of law shall be construed to prohibit a certified nurse-midwife from furnishing drugs or devices when all of the following apply:

(a) The drugs or devices are furnished incidentally to the provision of family planning services, as defined in Section 14503 of the Welfare and Institutions Code, or are furnished incidental to the provision of routine health care or perinatal care, as defined in subdivision (d) of Section 284 of the Health and Safety Code,

rendered to essentially healthy persons within a facility specified in subdivision (a), except in the case of sole practitioners, and subdivision (b), (c), (d), (i), or (j) of Section 1206 of, a clinic as specified in Section 1204 of, a general acute care hospital as defined in subdivision (a) of Section 1250 of, or a special hospital specified as a maternity hospital in subdivision (f) of Section 1250 of, the Health and Safety Code.

(b) The certified nurse-midwife is functioning pursuant to a standardized procedure, as defined by current law in Section 2725. The standardized procedure shall be developed and approved by the supervising physician and surgeon, the certified nurse-midwife, and the facility administrator or his or her designee.

(c) The standardized procedure covering the furnishing of drugs or devices shall specify which certified nurse-midwife may furnish drugs or devices, which drugs or devices may be furnished, under what circumstances, the extent of physician and surgeon supervision, the method of periodic review of the certified nurse-midwife's competence, including peer review, and review of the provisions of the standardized procedure.

(d) The furnishing of drugs or devices by a certified nurse-midwife occurs under physician and surgeon supervision. Physician and surgeon supervision shall not be construed to require the physical presence of the physician, but does include (1) collaboration on the development of the standardized procedure, (2) approval of the standardized procedure, and (3) availability by telephonic contact at the time of patient examination by the certified nurse-midwife.

(e) For purposes of this section, no physician and surgeon shall supervise more than four certified nurse-midwives at one time.

(f) Drugs or devices furnished by a certified nurse-midwife shall not include controlled substances under the California Uniform Controlled Substances Act, (Division 10 (commencing with Section 11000) of the Health and Safety Code) and shall be further limited to those drugs agreed upon by the certified nurse-midwife and physician and surgeon and specified in the standardized procedure.

(g) The board has certified in accordance with subdivision (h) that the certified nurse-midwife has satisfactorily completed (1) at least six month's physician and surgeon supervised experience in the furnishing of drugs or devices and (2) a course in pharmacology covering the drugs or devices to be furnished under this section. The board shall establish the requirements for satisfactory completion of this subdivision.

(h) The furnishing of drugs or devices by certified nurse-midwives is conditional on the issuance by the board of a number to the applicant who has successfully completed the requirements of subdivision (g). The number shall be included on all transmittals of orders for drugs or devices by the certified nurse-midwife. The board shall make the list available to the California State Board of Pharmacy. The board shall charge the

applicant fees for application, renewal, and penalty for failure to timely renew that are equal to the fees charged to nurse practitioners pursuant to Section 2836.3.

(i) Furnishing of drugs or devices by a certified nurse-midwife means the act of making a pharmaceutical agent or agents available to the patient in strict accordance with a standardized procedure.

SEC. 3. Section 2836.1 of the Business and Professions Code is amended to read:

2836.1. Neither this chapter nor any other provision of law shall be construed to prohibit a nurse practitioner from furnishing drugs or devices when all of the following apply:

(a) The drugs or devices are furnished incidentally to the provision of family planning services, as defined in Section 14503 of the Welfare and Institutions Code, or are furnished incidental to the provision of routine health care or perinatal care, as defined in subdivision (d) of Section 284 of the Health and Safety Code, rendered to essentially healthy persons within a facility specified in subdivision (a), except sole practitioners, and subdivision (b), (c), (d), (i), or (j) of Section 1206 of, a clinic as specified in Section 1204 of, a general acute care hospital specified in subdivision (a) of Section 1250 of, or a special hospital specified as a maternity hospital in subdivision (f) of Section 1250 of, the Health and Safety Code.

(b) The nurse practitioner is functioning pursuant to a standardized procedure, as defined by current law in Section 2725. The standardized procedure shall be developed and approved by the supervising physician and surgeon, the nurse practitioner, and the facility administrator or his or her designee.

(c) The standardized procedure covering the furnishing of drugs or devices shall specify which nurse practitioners may furnish drugs or devices, which drugs or devices may be furnished, under what circumstances, the extent of physician and surgeon supervision, the method of periodic review of the nurse practitioner's competence, including peer review, and review of the provisions of the standardized procedure.

(d) The furnishing of drugs or devices by a nurse practitioner occurs under physician and surgeon supervision. Physician and surgeon supervision shall not be construed to require the physical presence of the physician, but does include (1) collaboration on the development of the standardized procedure, (2) approval of the standardized procedure, and (3) availability by telephonic contact at the time of patient examination by the nurse practitioner.

(e) For purposes of this section, no physician and surgeon shall supervise more than four nurse practitioners at one time.

(f) Drugs or devices furnished by a nurse practitioner shall not include controlled substances under the California Uniform Controlled Substances Act, (Division 10 (commencing with Section 11000) of the Health and Safety Code) and shall be further limited to those drugs agreed upon by the nurse practitioner and physician and surgeon and specified in the standardized procedure.

(g) The board has certified in accordance with Section 2836.3 that the nurse practitioner has satisfactorily completed (1) at least six month's physician and surgeon-supervised experience in the furnishing of drugs or devices and (2) a course in pharmacology covering the drugs or devices to be furnished under Section 2836.1. The board shall establish the requirements for satisfactory completion of this subdivision.

SEC. 4. Section 10353 is added to the Insurance Code, to read:

10353. (a) Every policy of disability insurance issued, amended, or renewed on or after January 1, 1992, that offers coverage for perinatal services shall contain a provision providing for direct reimbursement to certified nurse-midwives and nurse practitioners for perinatal services. The certified nurse-midwife or nurse practitioner may collect payment for any unpaid portion of his or her fee, as provided for under the plan for other providers.

(b) For purposes of this section, "direct reimbursement" means that after the enrollee files a claim for the perinatal service provided by the certified nurse-midwife or nurse practitioner, the plan pays the certified nurse-midwife or nurse practitioner directly.

SEC. 5. Section 11512.07 is added to the Insurance Code, to read:

11512.07. (a) Every nonprofit hospital service plan contract issued, amended, or renewed on or after January 1, 1992, that offers coverage for perinatal services shall contain a provision providing for direct reimbursement to certified nurse-midwives and nurse practitioners for perinatal services. The certified nurse-midwife or nurse practitioner may collect payment for any unpaid portion of his or her fee as provided for under the plan for other providers.

(b) For purposes of this section, "direct reimbursement" means that after the enrollee files a claim for the perinatal service provided by the certified nurse-midwife or nurse practitioner, the plan pays the certified nurse-midwife or nurse practitioner directly.

(c) This section shall not be construed as requiring payment from individual recipients where prohibited by federal law or the state Medicaid plan.

CHAPTER 871

An act to amend Sections 19440 and 19596.1 of, to add Article 5.5 (commencing with Section 19520) to Chapter 4 of Division 8 of, to repeal and add Article 5 (commencing with Section 19510) of Chapter 4 of Division 8 of, and to repeal Sections 19440.5, 19441.5, 19442, and 19442.5 of, the Business and Professions Code, relating to horseracing.

[Approved by Governor October 12, 1991 Filed with Secretary of State October 14, 1991.]

The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares that the current system of regulating stewards is not adequately protecting the integrity of horseracing in California and that the selection, examination, and evaluation of stewards and other track officials should be reformed in the manner prescribed in this act.

SEC. 2. Section 19440 of the Business and Professions Code is amended to read:

19440. (a) The board shall have all powers necessary and proper to enable it to carry out fully and effectually the purposes of this chapter. Responsibilities of the board shall include, but not be limited to, all of the following:

(1) Adopting rules and regulations for the protection of the public and the control of horseracing and parimutuel wagering.

(2) Administration and enforcement of all laws, rules, and regulations affecting horseracing and parimutuel wagering.

(3) Adjudication of controversies arising from the enforcement of those laws and regulations dealing with horseracing and parimutuel wagering.

(4) Licensing of each racing association and all persons, other than the public at large, who participate in a horserace meeting with parimutuel wagering.

(5) Allocation of racing dates to qualified associations in the best interests of the people of California in accord with the intent of this chapter.

(b) The board may delegate to stewards appointed pursuant to Article 5 (commencing with Section 19510) any of its powers and duties that are necessary to carry out fully and effectuate the purposes of this chapter.

SEC. 3. Section 19440.5 of the Business and Professions Code is repealed.

SEC. 4. Section 19441.5 of the Business and Professions Code is repealed.

SEC. 5. Section 19442 of the Business and Professions Code is repealed.

SEC. 6. Section 19442.5 of the Business and Professions Code is repealed.

SEC. 7. Article 5 (commencing with Section 19510) of Chapter 4 of Division 8 of the Business and Professions Code is repealed.

SEC. 8. Article 5 (commencing with Section 19510) is added to Chapter 4 of Division 8 of the Business and Professions Code, to read:

Article 5. Stewards and Racing Officials

19510. (a) Every steward and racing official not required to be licensed under Article 4 (commencing with Section 19480) shall be licensed by the board pursuant to this article. Any license issued pursuant to this article shall include a current photograph of the licensed person.

(b) No person required to be licensed pursuant to this article may participate in any capacity in any horserace meeting without a valid and unrevoked license. The board shall determine the fixed license fee which shall be paid in order to receive a license pursuant to this article.

(c) As used in this section, "racing official" means the starter, timer, paddock judge, horseshoe inspector, horse identifier, official veterinarian, racing veterinarian, associate judge, placing judge, patrol judge, clerk of scales, clerk of the course, and any other person acting as an official at any horseracing meeting.

19511. (a) The stewards' committee is hereby created to advise the board with respect to matters relating to stewards and racing officials.

(b) The stewards' committee shall consist of seven members, selected by the board, as follows:

(1) One member of the board, designated by the board who shall act as chairperson of the committee.

(2) One member who shall be an active steward with the greatest seniority as a steward within this state.

(3) Two members selected from a list of five names submitted by the California Jockey and Drivers Guild.

(4) One member selected from a list of three names submitted by all tracks and fairs holding racing meetings located south of the Tehachapi mountains.

(5) One member selected from a list of three names submitted by all tracks and fairs holding racing meetings located north of the Tehachapi mountains.

(6) One member selected from a list of three names submitted by all of the breed organizations recognized by the board.

(c) The initial terms of the steward member and the Jockey and Drivers Guild members shall be two years. The initial terms of northern and southern track and fair members shall be three years. The initial term of the breed organizations member shall be four years. All subsequent terms of all members, except the chairperson, shall be four years.

(d) The committee shall meet regularly at least six times during every fiscal year and shall hold extra meetings on the call of the chairperson or a majority of the committee. Four members of the committee shall constitute a quorum. The vote of a majority of the committee is necessary for the transaction of the business of the committee.

19512. (a) The board shall require applicants for license as a

steward to pass both a written and an oral examination.

(b) The board may admit to examination any person who meets all of the following qualifications:

(1) Has not been convicted of a crime involving moral turpitude or of a felony.

(2) Has been given a physical examination by a licensed physician and surgeon within 60 days prior to the date of application for the steward's examination, indicating at least 20-20 vision or vision corrected to at least 20-20, and normal hearing ability.

(3) Possesses at least one of the following qualifications:

(A) Has at least five years of experience in the parimutuel horseracing industry as a licensed trainer, jockey, or driver.

(B) Has at least 10 years of experience in the California parimutuel horseracing industry as a licensed owner whose experience, knowledge, ability, and integrity relative to the industry are known to the board.

(C) Has at least three years of experience as a licensed racing official, racing secretary, assistant racing secretary, or director of racing.

(D) Has experience in the horseracing industry of a character and for a length of time sufficient, as determined by the board, to qualify the person as having experience substantially equivalent to the experience described in subparagraph (A), (B), or (C).

19513. (a) The board shall prepare both written and oral examinations. All examinations shall be standardized and, in the case of oral examinations, tape recorded. Written examinations may be administered by members of the board staff. Oral examinations shall be conducted by a panel of not less than three board members.

(b) The board shall provide a detailed outline of the subjects to be covered by the oral and written examinations for a license to every person who requests the outline.

(c) The results of the oral and written examinations for stewards licenses shall be a public record.

19514. Racing officials shall be licensed by the board pursuant to rules and regulations that the board may adopt, and upon payment of a license fee fixed and determined by the board.

19515. An original license issued under this article shall be issued for a period of the calendar year in which it is issued, and shall be renewable for a period, not to exceed three years, which the board may, by regulation, establish. The board may establish a license fee schedule consistent with the different period for which these licenses may be granted.

The license shall be valid at all horseracing meetings in this state during the period for which it is issued, unless it is suspended or revoked prior to the expiration of the period.

19516. The board may, at any time, require the removal of any racing official or employee in any case where it has reason to believe that the official or employee has been guilty of any dishonest practice in connection with horseracing, has failed to comply with any

condition of the licensee's license, or has violated any law or any rule or regulation of the board.

19517. (a) The board, upon due consideration, may overrule any steward's decision if a preponderance of the evidence indicates any of the following:

(1) The steward mistakenly interpreted the law.

(2) New evidence of a convincing nature is produced.

(3) The best interests of racing and the state may be better served.

(b) However, any decision pertaining to the finish of a race, as used for purposes of parimutuel fund distribution to winning ticketholders, may not be overruled. Furthermore, any decision pertaining to the distribution of purses may be changed only if a claim is made in writing to the board by one of the involved owners or trainers, and a preponderance of the evidence clearly indicates to the board that one or more of the grounds for protest, as outlined in regulations adopted by the board, has been substantiated. The chairperson of the board may issue a stay of execution pending appeal from a steward's decision if the facts justify the action.

19518. (a) (1) The board shall contract with persons licensed as stewards pursuant to this article to perform the duties of stewards at horseracing meets. Contracts shall be upon any terms that the board and the stewards may mutually agree upon and may contain different rates of compensation based upon the experience of the steward.

(2) The board shall establish a committee of at least two board members to meet at least quarterly with representatives of the stewards, so that recommendations of the stewards can be discussed as necessary. These meetings may be scheduled the same day as regular board meetings or at the convenience of the board. Representatives of associations may attend and participate in these meetings, or portions thereof, when items directly affecting the associations are discussed.

(3) The board shall provide remuneration, including any fringe benefits, to stewards, to the official veterinarian, and for the costs of laboratory testing relating to horseracing.

(b) Stewards and other racing officials appointed or approved by the board, and while performing duties required by this chapter or by the board, shall be entitled to the same rights and immunities granted public employees by Article 3 (commencing with Section 820) of Chapter 1 of Part 2 of Division 3.6 of Title 1 of the Government Code.

(c) The Legislature finds and declares that the services performed by stewards at horseracing meetings are unique and cannot be performed adequately, competently, or satisfactorily by civil service personnel, and that the services cannot be adequately rendered by an existing public agency and do not duplicate the function of an existing public agency. Stewards shall be personal service contractors of the board and shall not be civil service employees.

SEC. 9. Article 5.5 (commencing with Section 19520) is added to Chapter 4 of Division 8 of the Business and Professions Code, to read:

Article 5.5. Other Licenses

19520. (a) Every person not required to be licensed under Article 4 (commencing with Section 19480) who participates in, or has anything to do with, the racing of horses, including a horse owner, jockey, driver, apprentice, exercise boy, agent trainer, obvserver, stable foreman, groom, valet, horseshoer, stable watchman, and every employee of a parimutuel department, shall be licensed by the board pursuant to rules and regulations that the board may adopt, and upon the payment of a license fee fixed and determined by the board. Any license issued pursuant to this article shall include a current photograph of the licensed person.

(b) No person required to be licensed by this article may participate in any capacity in any horserace meeting without a valid and unrevoked license authorizing the participation.

19521. An original license issued pursuant to this article shall be issued for a period of the calendar year in which it is issued, and shall be renewable for a period, not to exceed three years, which the board may, by regulation, establish. The board may establish a license fee schedule consistent with the different period for which the licenses may be granted. The license shall be valid at all horseracing meetings in this state during the period for which it is issued, unless it is suspended or revoked prior to the expiration of the period.

19522. The board shall also set forth requirements for the position of satellite facility supervisor for all satellite wagering facilities operated by the state or on public land. The satellite facility supervisor shall, among other things, monitor the performance of licensees at the facilities.

19523. The board may, at any time, require the removal of any racing official or employee in any case where it has reason to believe that the official or employee has been guilty of any dishonest practice in connection with horseracing, has failed to comply with any condition of the licensee's license, or has violated any law or any rule or regulation of the board.

SEC. 10. Section 19596.1 of the Business and Professions Code, as amended by Chapter 345 of the Statutes of 1991, is amended to read:

19596.1. Notwithstanding any other provision of law, the board may authorize an association conducting a race meeting to accept wagers on the results of out-of-state harness or quarter horse feature races or stake races and, with the board's approval and with the concurrence of the horsemen's organization contracting with the association, other designated harness or quarter horse races during the period it is conducting the racing meeting, if the following conditions are met:

(a) The authorization complies with federal laws, including, but not limited to, Chapter 57 (commencing with Section 3001) of Title

15 of the United States Code.

(b) Wagering is offered only within the racing inclosure and only within 36 hours of the running of the out-of-state feature race.

(c) On a day during a racing meeting on which live races are not being run, the out-of-state feature race has a gross purse of at least one hundred thousand dollars ($100,000).

CHAPTER 872

An act to amend Sections 33334.2, 33334.3, 33334.6, and 33413 of the Health and Safety Code, relating to redevelopment.

[Approved by Governor October 12, 1991. Filed with Secretary of State October 14, 1991]

The people of the State of California do enact as follows:

SECTION 1. Section 33334.2 of the Health and Safety Code is amended to read:

33334.2. (a) Not less than 20 percent of all taxes which are allocated to the agency pursuant to Section 33670 shall be used by the agency for the purposes of increasing, improving, and preserving the community's supply of low- and moderate-income housing available at affordable housing cost, as defined by Section 50052.5, to persons and families of low or moderate income, as defined in Section 50093, and very low income households, as defined in Section 50105, unless one of the following findings is made annually by resolution:

(1) That no need exists in the community to improve, increase, or preserve the supply of low- and moderate-income housing, including housing for very low income households in a manner which would benefit the project area and that this finding is consistent with the housing element of the community's general plan required by Article 10.6 (commencing with Section 65580) of Chapter 3 of Division 1 of Title 7 of the Government Code, including its share of the regional housing needs of very low income households and persons and families of low or moderate income.

This finding shall only be made if the housing element of the community's general plan demonstrates that the community does not have a need to improve, increase, or preserve the supply of low- and moderate-income housing available at affordable housing cost to persons and families of low or moderate income and to very low income households. This finding shall only be made if it is consistent with the planning agency's annual report to the legislative body on implementation of the housing element required by subdivision (b) of Section 65400 of the Government Code. No agency of a charter city shall make this finding unless the planning agency submits the report pursuant to subdivision (b) of Section 65400 of the Government Code. This finding shall not take effect until the agency

has complied with subdivision (b) of this section.

(2) That some stated percentage less than 20 percent of the taxes which are allocated to the agency pursuant to Section 33670 is sufficient to meet the housing needs of the community, including its share of the regional housing needs of persons and families of low or moderate income and very low income households, and that this finding is consistent with the housing element of the community's general plan required by Article 10.6 (commencing with Section 65580) of Chapter 3 of Division 1 of Title 7 of the Government Code.

This finding shall only be made if the housing element of the community's general plan demonstrates that a percentage of less than 20 percent will be sufficient to meet the community's need to improve, increase, or preserve the supply of low- and moderate-income housing available at affordable housing cost to persons and families of low or moderate income and to very low income households. This finding shall only be made if it is consistent with the planning agency's annual report to the legislative body on implementation of the housing element required by subdivision (b) of Section 65400 of the Government Code. No agency of a charter city shall make this finding unless the planning agency submits the report pursuant to subdivision (b) of Section 65400 of the Government Code. This finding shall not take effect until the agency has complied with subdivision (b) of this section.

For purposes of making the findings specified in this paragraph and paragraph (1), the housing element of the general plan of a city or county shall be current, shall have been submitted to the Department of Housing and Community Development within the applicable time period, and shall be in compliance with Article 10.6 (commencing with Section 65580) of Chapter 3 of Division 1 of Title 7 of the Government Code.

(3) That the community is making a substantial effort to meet its existing and projected housing needs, including its share of the regional housing needs, with respect to persons and families of low and moderate income, particularly very low income households, as identified in the housing element of the community's general plan required by Article 10.6 (commencing with Section 65580) of Chapter 3 of Division 1 of Title 7 of the Government Code, and that this effort, consisting of direct financial contributions of local funds used to increase and improve the supply of housing affordable to persons and families of low or moderate income and very low income households, is equivalent in impact to the funds otherwise required to be set aside pursuant to this section. In addition to any other local funds, these direct financial contributions may include federal or state grants paid directly to a community and which the community has the discretion of using for the purposes for which moneys in the Low and Moderate Income Housing Fund may be used. The legislative body shall consider the need which can be reasonably foreseen because of displacement of persons and families of low or moderate income or very low income households from within, or

adjacent to, the project area, because of increased employment opportunities, or because of any other direct or indirect result of implementation of the redevelopment plan. No finding under this subdivision may be made until the community has provided or ensured the availability of replacement dwelling units as defined in Section 33411.2 and until it has complied with the provisions of Article 9 (commencing with Section 33410).

In making the determination that other financial contributions are equivalent in impact pursuant to this subdivision, the agency shall include only those financial contributions which are directly related to programs or activities authorized under subdivision (e) of this section.

The authority for making the finding specified in this paragraph shall expire on June 30, 1993, except that the expiration shall not be deemed to impair contractual obligations to bondholders or private entities incurred prior to May 1, 1991, and made in reliance on the provisions of this paragraph. Agencies which make this finding after June 30, 1993, shall show evidence that the agency entered into the specific contractual obligation with the specific intention of making a finding under this paragraph in order to provide sufficient revenues to pay off the indebtedness.

(b) Within 10 days following the making of a finding under subdivision (a), the agency shall send the Department of Housing and Community Development a copy of the finding, including the factual information supporting the finding and other factual information in the housing element that demonstrates that either (1) the community does not need to increase, improve, or preserve the supply of housing for low- and moderate-income households, including very low income households, or (2) a percentage less than 20 percent will be sufficient to meet the community's need to improve, increase, and preserve the supply of housing for low- and moderate-income households, including very low income households. Within 10 days following the making of a finding under paragraph (3) of subdivision (a), the agency shall send the Department of Housing and Community Development a copy of the finding, including the factual information supporting the finding that the community is making a substantial effort to meet its existing and projected housing needs. Agencies which make this finding after June 30, 1993, shall also submit evidence to the department of its contractual obligations with bondholders or private entities incurred prior to May 1, 1991, and made in reliance on this finding. If an agency is determined by a court to have knowingly or negligently misrepresented any material facts regarding the community's share of its regional housing need for low- and moderate-income housing, including very low income households or the community's production record in meeting its share of the regional housing need pursuant to the report required by subdivision (b) of Section 65400 of the Government Code, the agency shall be liable for all court costs and plaintiff's attorney fees and shall be required to allocate not less

than 25 percent of the agency's tax increment revenues to its Low and Moderate Income Housing Fund in each year thereafter.

(c) In any litigation to challenge or attack a finding made under paragraph (1), (2), or (3) of subdivision (a), the burden shall be upon the agency to establish that the finding is supported by substantial evidence in light of the entire record before the agency.

(d) Nothing in this section shall be construed as relieving any other public entity or entity with the power of eminent domain of any legal obligations for replacement or relocation housing arising out of its activities.

(e) In carrying out the purpose of this section, the agency may exercise any or all of its powers, including the following:

(1) Acquire real property or building sites subject to the provisions of Section 33334.16.

(2) Improve real property or building sites with onsite or offsite improvements, but only if the improvements directly and specifically improve or increase the community's supply of low- or moderate-income housing.

(3) Donate real property to private or public persons or entities.

(4) Finance insurance premiums pursuant to Section 33136.

(5) Construct buildings or structures.

(6) Acquire buildings or structures.

(7) Rehabilitate buildings or structures.

(8) Provide subsidies to, or for the benefit of, very low income households, as defined by Section 50105, lower income households, as defined by Section 50079.5, or persons and families of low or moderate income, as defined by Section 50093, to the extent those households cannot obtain housing at affordable costs on the open market. Housing units available on the open market are those units developed without direct government subsidies.

(9) Develop plans, pay principal and interest on bonds, loans, advances, or other indebtedness, or pay financing or carrying charges.

(10) Maintain the community's supply of mobilehomes.

(11) Preserve the availability to lower income households of affordable housing units in housing developments which are assisted or subsidized by public entities and which are threatened with imminent conversion to market rates.

(f) The agency may use these funds to meet, in whole or in part, the replacement housing provisions in Section 33413. However, nothing in this section shall be construed as limiting in any way the requirements of that section.

(g) The agency may use these funds inside or outside the project area. The agency may only use these funds outside the project area upon a resolution of the agency and the legislative body that such use will be of benefit to the project. The determination by the agency and the legislative body shall be final and conclusive as to the issue of benefit to the project area. The Legislature finds and declares that the provision of replacement housing pursuant to Section 33413 is

always of benefit to a project. Unless the legislative body finds before the redevelopment plan is adopted, that the provision of low- and moderate-income housing outside the project area will be of benefit to the project, the project area shall include property suitable for low- and moderate-income housing.

(h) The Legislature finds and declares that expenditures or obligations incurred by the agency pursuant to this section shall constitute an indebtedness of the project.

(i) The requirements of this section shall only apply to taxes allocated to a redevelopment agency for which a final redevelopment plan is adopted on or after January 1, 1977, or for any area which is added to a project by an amendment to a redevelopment plan, which amendment is adopted on or after the effective date of this section. An agency may, by resolution, elect to make all or part of the requirements of this section applicable to any redevelopment project for which a redevelopment plan was adopted prior to January 1, 1977, subject to any indebtedness incurred prior to the election.

SEC. 2. Section 33334.3 of the Health and Safety Code is amended to read:

33334.3. (a) The funds which are required by Section 33334.2 or 33334.6 to be used for the purposes of increasing and improving the community's supply of low- and moderate-income housing shall be held in a separate Low and Moderate Income Housing Fund until used.

(b) Any interest earned by the Low and Moderate Income Housing Fund and any repayments or other income to the agency for loans, advances, or grants, of any kind from the Low and Moderate Income Housing Fund, shall accrue to and be deposited in, the fund and may only be used in the manner prescribed for the Low and Moderate Income Housing Fund.

(c) The moneys in the Low and Moderate Income Housing Fund shall be used to increase, improve, and preserve the supply of low- and moderate-income housing within the territorial jurisdiction of the agency.

(d) It is the intent of the Legislature that the Low and Moderate Income Housing Fund be used to the maximum extent possible to defray the costs of production, improvement, and preservation of low- and moderate-income housing and that the amount of money spent for planning and general administrative activities associated with the development, improvement, and preservation of that housing not be disproportionate to the amount actually spent for the costs of production, improvement, or preservation of that housing. The agency shall determine annually that the planning and administrative expenses are necessary for the production, improvement, or preservation of low- and moderate-income housing.

(e) (1) Planning and general administrative costs which may be paid with moneys from the Low and Moderate Income Housing

Fund are those expenses incurred by the agency which are directly related to the programs and activities authorized under subdivision (e) of Section 33334.2 and are limited to the following:

(A) Costs incurred for salaries, wages, and related costs of the agency's staff or for services provided through interagency agreements, and agreements with contractors, including usual indirect costs related thereto.

(B) Costs incurred by a nonprofit corporation which are not directly attributable to a specific project.

(2) Legal, architectural, and engineering costs and other salaries, wages, and costs directly related to the planning and execution of a specific project which are authorized under subdivision (e) of Section 33334.2 and which are incurred by a nonprofit housing sponsor are not planning and administrative costs for the purposes of this section, but are instead project costs.

(f) The requirements of this subdivision apply to all new or substantially rehabilitated housing units developed or otherwise assisted, with moneys from the Low and Moderate Income Housing Fund, pursuant to an agreement approved by an agency on or after January 1, 1988. Except to the extent a longer period of time may be required by other provisions of law, the agency shall require that housing units subject to this subdivision shall remain available at affordable housing costs to persons and families of low or moderate income and very low income households for the longest feasible time, but for not less than the following periods of time, except as provided in Section 33334.13:

(1) Fifteen years for rental units. However, the agency may replace rental units with equally affordable and comparable rental units in another location within the community if (A) the replacement units are available for occupancy prior to the displacement of any persons and families of low or moderate income residing in the units to be replaced and (B) the comparable replacement units are not developed with moneys from the Low and Moderate Income Housing Fund.

(2) Ten years for owner-occupied units. However, the agency may permit sales of owner-occupied units prior to the expiration of the 10-year period for a price in excess of that otherwise permitted under this subdivision pursuant to an adopted program which protects the agency's investment of moneys from the Low and Moderate Income Housing Fund, including, but not limited to, an equity sharing program which establishes a schedule of equity sharing that permits retention by the seller of a portion of those excess proceeds based on the length of occupancy. The remainder of the excess proceeds of the sale shall be allocated to the agency and deposited in the Low and Moderate Income Housing Fund.

The agency shall require the recording in the office of the county recorder of covenants or restrictions implementing this subdivision for each parcel or unit of real property subject to this subdivision. Notwithstanding any other provision of law, the covenants or

restrictions shall run with the land and shall be enforceable, against the original owner and successors in interest, by the agency or the community.

(g) "Housing," as used in this section, includes residential hotels, as defined in subdivision (k) of Section 37912. The definitions of "lower income households" and "very low income households" in Sections 50079.5 and 50105 shall apply to this section. "Longest feasible time," as used in this section, includes, but is not limited to, unlimited duration.

(h) "Increasing, improving, and preserving the community's supply of low- and moderate-income housing," as used in this section and in Section 33334.2, includes the preservation of rental housing units assisted by federal, state, or local government on the condition that units remain affordable to low- and moderate-income households, including very low income households, for a specified period of time, beyond the date the subsidies and use restrictions could be terminated and the assisted housing units converted to market rate rentals. In preserving these units the agency shall require the units remain affordable to persons and families of low- and moderate-income and very low income households for the longest feasible time. However, the agency may replace rental units with equally affordable and comparable rental units in another location within the community if (1) the replacement units in another location are available for occupancy prior to the displacement of any persons and families of low or moderate income residing in the units to be replaced and (2) the comparable replacement units are not developed with moneys from the Low and Moderate Income Housing Fund.

(i) Agencies that have more than one project area may satisfy the requirements of this section by allocating, in any fiscal year, less than 20 percent in one project area, if the difference between the amount allocated and the 20 percent required, is instead allocated, in that same fiscal year, to the Low and Moderate Income Housing Fund from tax increment revenues from other project areas. Prior to allocating funds pursuant to this subdivision, the agency shall make the finding required by subdivision (g) of Section 33334.2.

SEC. 3. Section 33334.6 of the Health and Safety Code is amended to read:

33334.6. (a) The Legislature finds and declares that the provision of housing is itself a fundamental purpose of the Community Redevelopment Law and that a generally inadequate statewide supply of decent, safe, and sanitary housing affordable to persons and families of low or moderate income, as defined by Section 50093, threatens the accomplishment of the primary purposes of the Community Redevelopment Law, including job creation, attracting new private investments, and creating physical, economic, social, and environmental conditions to remove and prevent the recurrence of blight. The Legislature further finds and declares that the provision and improvement of affordable housing,

as provided by Section 33334.2, outside of redevelopment project areas can be of direct benefit to those projects in assisting the accomplishment of project objectives whether or not those redevelopment projects provide for housing within the project area. The Legislature finds and determines that the provision of affordable housing by redevelopment agencies and the use of taxes allocated to the agency pursuant to subdivision (b) of Section 33670 is of statewide benefit and of particular benefit and assistance to all local governmental agencies in the areas where the housing is provided.

(b) This section is applicable to all project areas, or portions of project areas, which are not subject to Section 33334.2, except that a project area, or portion of a project area, for which a resolution was adopted pursuant to subdivision (i) of Section 33334.2 is subject to this section. Project areas subject to this section which are merged are subject to the requirements of both this section and Section 33487. The deposit of taxes into the Low and Moderate Income Housing Fund in compliance with either this section or Section 33487 shall satisfy the requirements of both sections in the year those taxes are deposited.

(c) Except as otherwise permitted by subdivisions (d) and (e), not less than 20 percent of the taxes allocated to the agency pursuant to Section 33670 from project areas specified in subdivision (b) for the 1985–86 fiscal year and each succeeding fiscal year shall be deposited into the Low and Moderate Income Housing Fund established pursuant to Section 33334.3 and used for the purposes set forth in Section 33334.2, unless the agency, by resolution, makes one of the findings described in paragraphs (1) to (3), inclusive, of subdivision (a) of Section 33334.2, except that the authority to make the finding specified in paragraph (3) of subdivision (a) of that section shall expire as specified in that paragraph. Subdivisions (b) and (c) of Section 33334.2 apply if an agency makes any of those findings.

(d) In any fiscal year, the agency may deposit less than the amount required by subdivision (c) into the Low and Moderate Income Housing Fund if the agency finds that the difference between the amount deposited and the amount required by subdivision (c) is necessary to make payments under existing obligations of amounts due or required to be committed, set aside, or reserved by the agency during that fiscal year and which are used by the agency for that purpose. For purposes of this section, "existing obligations" means the principal of, and interest on, loans, moneys advanced to, or indebtedness (whether funded, refunded, assumed, or otherwise) incurred by the agency to finance or refinance, in whole or in part, any redevelopment project existing on, and created prior to January 1, 1986, and contained on the statement of existing obligations adopted pursuant to subdivision (f). Obligations incurred on or after January 1, 1986, shall be deemed existing obligations for purposes of this section if the net proceeds are used to refinance existing obligations contained on the statement.

(e) In each fiscal year prior to July 1, 1996, the agency may deposit less than the amount required by subdivisions (c) and (d) into the Low and Moderate Income Housing Fund if the agency finds that the deposit of less than the amount required by those subdivisions is necessary in order to provide for the orderly and timely completion of public and private projects, programs, or activities approved by the agency prior to January 1, 1986, which are contained on the statement of existing programs adopted pursuant to subdivision (f). Approval of these projects, programs, and activities means approval by the agency of written documents which demonstrate an intent to implement a specific project, program, or activity and is not limited to final approval of a specific project, program, or activity.

(f) Any agency which deposits less than the amount required by subdivision (c) into the Low and Moderate Income Housing Fund pursuant to subdivision (d) or (e) shall adopt prior to September 1, 1986, by resolution, after a noticed public hearing, a statement of existing obligations or a statement of existing programs, or both.

(1) The agency shall prepare and submit the proposed statement to the legislative body and to the Department of Housing and Community Development prior to giving notice of the public hearing. Notice of the time and place of the public hearing shall be transmitted to the Department of Housing and Community Development at least 15 days prior to the public hearing and notice of the time and place of the public hearing shall be published in a newspaper of general circulation in the community once a week for at least two successive weeks prior to the public hearing. The legislative body shall maintain a record of the public hearing.

(2) A copy of the resolution adopted by the agency, together with any amendments to the statement of the agency, shall be transmitted to the Department of Housing and Community Development within 10 days following adoption of the resolution by the agency.

(3) A statement of existing obligations shall describe each existing obligation and, based upon the best available information, as determined by the agency, list the total amount of the existing obligation, the annual payments required to be made by the agency pursuant to the existing obligation, and the date the existing obligation will be discharged in full.

(4) A statement of existing programs shall list the specific public and private projects, programs, or activities approved prior to January 1, 1986, which are necessary for the orderly completion of the redevelopment plan as it existed on January 1, 1986. No project, program, or activity shall be included on the statement of existing programs unless written evidence of the existence and approval of the project, program, or activity prior to January 1, 1986, is attached to the statement of existing programs.

(g) If, pursuant to subdivision (d) or (e), the agency deposits less than 20 percent of the taxes allocated to the agency pursuant to Section 33670 in the 1985–86 fiscal year or any subsequent fiscal year in the Low and Moderate Income Housing Fund, the amount equal

to the difference between 20 percent of the taxes allocated to the agency pursuant to Section 33670 for each affected project and the amount deposited that year shall constitute a deficit of the project. The agency shall adopt a plan to eliminate the deficit in subsequent years as determined by the agency.

(h) The obligations imposed by this section, including deficits, if any, created under this section, are hereby declared to be an indebtedness of the redevelopment project to which they relate, payable from taxes allocated to the agency pursuant to Section 33670, and shall constitute an indebtedness of the agency with respect to the redevelopment project until paid in full.

(i) In any litigation to challenge or attack a statement of existing obligations, the decision by the agency after the public hearing to include an existing obligation on the statement of existing obligations, or the decision by the agency after the public hearing to include a project, program, or activity on the statement of existing programs, the court shall uphold the action of the agency unless the court finds that the agency has abused its discretion. The Legislature finds and declares that this standard of review is necessary in order to protect against the possible impairment of existing obligations, programs, and activities because agencies with project areas adopted prior to January 1, 1977, have incurred existing obligations and have adopted projects, programs, and activities with the authority to receive and pledge the entire allocation of funds authorized by Section 33670.

SEC. 4. Section 33413 of the Health and Safety Code is amended to read:

33413. (a) Whenever dwelling units housing persons and families of low or moderate income are destroyed or removed from the low- and moderate-income housing market as part of a redevelopment project which is subject to a written agreement with the agency or where financial assistance has been provided by the agency, the agency shall, within four years of the destruction or removal, rehabilitate, develop, or construct, or cause to be rehabilitated, developed, or constructed, for rental or sale to persons and families of low or moderate income, an equal number of replacement dwelling units which have an equal or greater number of bedrooms as those destroyed or removed units at affordable housing costs within the territorial jurisdiction of the agency. When dwelling units are destroyed or removed after September 1, 1989, 75 percent of the replacement dwelling units shall replace dwelling units available at affordable housing cost in the same income level of very low income households, lower income households, and persons and families of low and moderate income, as the persons displaced from those destroyed or removed units.

(b) (1) At least 30 percent of all new or rehabilitated dwelling units developed by an agency shall be available at affordable housing cost to persons and families of low or moderate income. Not less than 50 percent of the dwelling units required to be available at affordable

housing cost to persons and families of low or moderate income shall be available at affordable housing cost to, and occupied by, very low income households.

(2) At least 15 percent of all new or rehabilitated dwelling units developed within the project area by public or private entities or persons other than the agency shall be available at affordable housing cost to persons and families of low or moderate income. Not less than 40 percent of the dwelling units required to be available at affordable housing cost to persons and families of low or moderate income shall be available at affordable housing cost to very low income households.

(3) The requirements of this subdivision shall apply independently of the requirements of subdivision (a) and in the aggregate to housing made available pursuant to paragraphs (1) and (2), respectively, and not to each individual case of rehabilitation, development, or construction of dwelling units.

(4) Each redevelopment agency shall adopt a plan to comply with the requirements of this subdivision for each project area. The plan shall be consistent with, and may be included within, the community's housing element. The plan shall be reviewed and, if necessary, amended at least every five years in conjunction with the housing element cycle. The plan shall ensure that the requirements of this subdivision are met every 10 years.

The plan shall include estimates of the number of new or rehabilitated residential units to be developed within the project area and the number of units for very low income households and low- and moderate-income households which will be developed in order to meet the requirements of paragraph (2). The plan shall also include estimates of the number of agency developed residential units which will be developed during the next five years if any, and the number of units for very low income households and, low- and moderate-income households which will be developed during the same period of time to meet the requirements of paragraph (1). If the requirements of this subdivision are not met by the end of each 10-year period, the agency shall meet these goals on an annual basis until the requirements for the 10-year period are met. If the agency has exceeded the requirements within the 10-year period, the agency may count the units that exceed the requirement in order to meet the requirements during the next 10-year period.

(c) The agency shall require that the aggregate number of replacement dwelling units and other dwelling units rehabilitated, developed, or constructed pursuant to subdivision (a) or (b) remain available at affordable housing cost to persons and families of low income, moderate income, and very low income households, respectively, for the longest feasible time, as determined by the agency, but for not less than the period of the land use controls established in the redevelopment plan, except to the extent a longer period of time may be required by other provisions of law. If land on which those dwelling units are located is deleted from the project

area, the agency shall continue to require that those units remain affordable as specified in the previous sentence. These requirements shall be made enforceable in the same manner as provided in subdivision (e) of Section 33334.3.

(d) (1) This section applies only to redevelopment projects for which a final redevelopment plan is adopted pursuant to Article 5 (commencing with Section 33360) on or after January 1, 1976, and to areas which are added to a project area by amendment to a final redevelopment plan adopted on or after January 1, 1976. In addition, subdivision (a) shall apply to any other redevelopment project with respect to dwelling units destroyed or removed from the low- and moderate-income housing market on or after January 1, 1996, irrespective of the date of adoption of a final redevelopment plan or an amendment to a final redevelopment plan adding areas to a project area. Additionally, any agency may, by resolution, elect to make all or part of the requirements of this section applicable to any redevelopment project of the agency for which the final redevelopment plan was adopted prior to January 1, 1976.

(2) An agency may, by resolution, elect to require that whenever dwelling units housing persons or families of low or moderate income are destroyed or removed from the low- and moderate-income housing market as part of a redevelopment project, the agency shall replace each dwelling unit with up to two replacement dwelling units pursuant to subdivision (a).

(e) Except as otherwise authorized by law, this section does not authorize an agency to operate a rental housing development beyond the period reasonably necessary to sell or lease the housing development.

(f) Notwithstanding subdivision (a), the agency may replace destroyed or removed dwelling units with a fewer number of replacement dwelling units if the replacement dwelling units meet both of the following criteria:

(1) The total number of bedrooms in the replacement dwelling units equal or exceed the number of bedrooms in the destroyed or removed units. Destroyed or removed units having one or no bedroom are deemed for this purpose to have one bedroom.

(2) The replacement units are affordable to the same income level of households as the destroyed or removed units.

(g) "Longest feasible time," as used in this section, includes, but is not limited to, unlimited duration.

SEC. 5. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund. Notwithstanding Section 17580 of the Government Code, unless

otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 873

An act to amend, repeal, and add Section 8051.1 of, to amend Sections 8051.2 and 8388 of, and to add Section 1068 to, the Fish and Game Code, relating to fishing, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 12, 1991 Filed with Secretary of State October 14, 1991]

The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares that the sea urchin fishery is important to the people of California. It harvests a resource, once considered a nuisance and which the state attempted to eradicate. It provides, on a sustained yield, a valuable food product for export to Japan and Asia, thereby helping to reduce the nation's trade imbalance while providing the state with income and employment for fishermen, shoreworkers, and support business, and is now the state's third largest fishery. The Legislature declares that in order to: assist this new fishery; foster cooperation between sea urchin divers and receivers and the Department of Fish and Game; better protect, manage, and enhance the sea urchin fishery; foster improvements in sea urchin diver safety; and maximize the economic and employment benefits of this fishery to the state and the nation; that the department should make a one-time grant to a California nonprofit organization representing a majority of the licensed sea urchin fishermen for the purpose of conducting programs for industry and public education, conservation and enhancement, safety, and communications, including communications in other languages, for the benefit of foreign receivers and exporters, consistent with the state's goal of protection, wise management, utilization, and enhancement of the sea urchin fishery and resource.

It is the Legislature's intent that the grant to the nonprofit organization of sea urchin divers and receivers shall be limited to two years and shall not be renewed. It is further the intent of the Legislature that the Department of Fish and Game shall fully recover all of the administrative costs incurred by the department in implementing this act.

SEC. 2. Section 1068 is added to the Fish and Game Code, to read:

1068. (a) Beginning November 1, 1991, the director shall make a grant in installments to a nonprofit organization of sea urchin divers in an amount not to exceed four hundred thousand dollars

($400,000), for the organization to accomplish the following purposes:

(1) To establish a communications network among sea urchin divers, through a periodic newsletter and such other means as are deemed necessary and appropriate by the organization, providing divers with information on policies, procedures, statutes, and regulations affecting the sea urchin fishery, meeting announcements, and for other information the department reasonably requests to be transmitted to sea urchin divers.

(2) To establish an education program for sea urchin divers and the public on the conservation and utilization of sea urchins.

(3) To work with the director's Sea Urchin Advisory Committee in developing an industry consensus on measurements.

(4) To establish a sea urchin diver safety program.

(5) To identify areas for recommendation to the director's Sea Urchin Advisory Committee for sea urchin enhancement.

(6) To develop a program to improve compliance with regulations and assistance to the department in the prevention of poaching.

The grant shall be paid, upon submission and approval of an annual budget, in quarterly installments, in amounts deemed appropriate by the department, upon the submission to the department of progress reports which demonstrate the continued achievements of the organization toward the intended goals.

(b) Prior to making the grant, the director shall verify from the nonprofit organization's bylaws that it is established for, among other purposes, the protection, conservation, enhancement, and promotion of the sea urchin fishery, and that its membership, including its board of directors, is composed solely of licensed commercial sea urchin divers.

(c) The grant shall be funded from revenues received pursuant to subdivision (b) of Section 8051.1 until March 1, 1994. The department shall estimate the revenues to be received pursuant to subdivision (b) of Section 8051.1 on a quarterly basis. If the department determines that the revenue to be received will not be sufficient to fund the amount of the grant, including departmental overhead charges, which shall be recovered in full, the department shall reduce the amount of the grant accordingly.

SEC. 3. Section 8051.1 of the Fish and Game Code is amended to read:

8051.1. (a) Commencing January 1, 1992, every person who is required to pay a landing tax for sea urchins pursuant to Sections 8041 and 8042 shall pay, in addition to the landing taxes determined in accordance with the schedule in Section 8051, an additional landing tax of one-half cent ($0.005) for each pound, or fraction thereof, of sea urchins, determined as provided in Section 8042. Those persons shall be responsible for the total amount of taxes payable to the department pursuant to this section and shall remit that amount to the department with all other taxes due and payable. However, those

persons shall deduct an amount equal to one-quarter of one cent ($0.0025) of the tax payable pursuant to this subdivision for each pound, or fraction thereof, of sea urchins, from payments made to divers for sea urchins, as listed on forms issued pursuant to Section 8043.

(b) Commencing January 1, 1992, in addition to the additional landing tax authorized pursuant to subdivision (a), every person who is required to pay a landing tax for sea urchins pursuant to Sections 8041 and 8042 shall pay an additional landing tax of one-half cent ($0.005) for each pound, or fraction thereof, of sea urchins, and shall deduct the amount of that tax from payments made to divers for sea urchins as listed on forms issued pursuant to Section 8043, and shall remit that amount to the department with all other landing taxes due and payable.

(c) This section shall become inoperative on March 1, 1994, and as of January 1, 1995, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1995, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 4. Section 8051.1 is added to the Fish and Game Code, to read:

8051.1. (a) Every person who is required to pay a landing tax for sea urchins pursuant to Sections 8041 and 8042 shall pay, in addition to the landing taxes determined in accordance with the schedule in Section 8051, an additional landing tax of one-half cent ($0.005) for each pound, or fraction thereof, of sea urchins, determined as provided in Section 8042.

(b) This section shall become operative on March 1, 1994, and shall remain in effect only until January 1, 1996, and as of that date is repealed, unless a later enacted statute, which is enacted on or before January 1, 1996, deletes or extends that date.

SEC. 5. Section 8051.2 of the Fish and Game Code is amended to read:

8051.2. (a) The landing tax collected pursuant to Section 8051.1 shall be deposited in the Fish and Game Preservation Fund and 60 percent of the revenue deposited shall be used solely for the Sea Urchin Resources Enhancement Program in support of the recommendations of the committee established by subdivision (c) and other sea urchin resource enhancement measures as provided in the annual Budget Act. The remaining 40 percent of the revenue shall be used solely for research and management activities to monitor and maintain the sea urchin resource. The department shall maintain internal accountability necessary to ensure that all restrictions on the expenditure of Sea Urchin Resources Enhancement Program funds and research and management funds are met.

(b) An amount, not to exceed 15 percent of the total annual revenues deposited in the fund pursuant to subdivision (a), may be used by the department for the administration of the Sea Urchin Resources Enhancement Program and the research and

management activities, including any reasonable and necessary expenses.

(c) The Commercial Sea Urchin Advisory Committee in existence on the effective date of the act that amends this section at the 1991–92 Regular Session of the Legislature, which consists of 12 members selected by the director, shall be continued in existence and renamed the director's Sea Urchin Advisory Committee. One member shall be chosen from the personnel of the department. Ten members shall be selected, with alternates, from nominations submitted by sea urchin fishermen and processors and by associations representing the commercial sea urchin industry of California. Five of the industry members shall be from northern California, two representing divers and three representing processors. At least one of the northern California processor representatives shall reside in a geographical area other than Fort Bragg. Five of the industry members shall be from southern California, three representing divers and two representing processors. All of the California diver representatives shall reside in different geographical areas of the state. The area marine coordinator from the University of California at Davis shall be the other member.

For the money available to the Sea Urchin Resource Enhancement Program, the committee may annually submit to the department proposed projects and a budget for the program. The department, after conducting a public review and discussion, shall incorporate all or part of the proposed projects and budget recommendations in its submittal to the Governor's Budget.

(d) The department shall submit to the Legislature a report of its findings and recommendations for enhancement of the sea urchin resource on or before January 1, 1993, including the recommendations of the director's Sea Urchin Advisory Committee regarding enhancement of the sea urchin resource.

(e) This section shall remain in effect only until January 1, 1997, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1997, deletes or extends that date.

SEC. 6. Section 8388 of the Fish and Game Code is amended to read:

8388. (a) No female angel shark measuring less than 42 inches in total length or 15¼ inches in alternate length and no male angel shark measuring less than 40 inches in total length or 14½ inches in alternate length may be possessed, sold, or purchased, except that 10 percent of the angel sharks in any load may measure not more than ½ inch less than the minimum sizes specified herein.

(b) Angel shark total length shall be measured from the anterior end of the head to the tip of the tail while the fish is lying in a position of natural repose. When measuring total length or alternate length, the tip of the tail may be laid flat against the surface of the measuring device. Angel shark alternate length shall be measured from the point where the leading edge of the first dorsal fin meets the back to the tip of the tail. Angel sharks may be constrained from lateral

movement during measurement by restraining devices approved by the department.

(c) Angel sharks taken in gill or trammel nets shall be landed (brought ashore) with at least one intact pelvic fin and the tail fin attached.

(d) Angel sharks taken in gill or trammel nets shall not be transferred to or from another vessel, except that angel sharks may be transferred to or from vessels with a department observer on board. An observer shall observe and make a written record of that transfer.

SEC. 7. The sum of four hundred thousand dollars ($400,000) is hereby appropriated to the Department of Fish and Game, from the Fish and Game Preservation Fund, from funds received pursuant to Section 8051.2 of the Fish and Game Code, for the purposes of this act.

SEC. 8. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order for the Department of Fish and Game to immediately initiate a grant program with a nonprofit sea urchin divers' association, and thereby effect and encourage the continued protection, management, and enhancement of the sea urchin fishery and the safety of those involved in this fishery, and to protect angel sharks it is necessary that this act take effect immediately.

CHAPTER 874

An act to add Part 9 (commencing with Section 44470) to Division 26 of the Health and Safety Code, relating to environmental protection.

[Approved by Governor October 12, 1991. Filed with Secretary of State October 14, 1991.]

The people of the State of California do enact as follows:

SECTION 1. Part 9 (commencing with Section 44470) is added to Division 26 of the Health and Safety Code, to read:

PART 9. HALOGENATED REFRIGERANTS

44470. (a) The Legislature finds and declares the following:

(1) For the first time in human history, the use and disposal of certain manmade products are actively destroying a layer of the earth's atmosphere without which human life cannot continue to exist.

(2) These products, known as chlorofluorocarbons and halons,

have already begun to deplete the ozone layer which protects human and other life forms from cancer-causing ultraviolet radiation. Above California, the ozone shield has been depleted about 3 percent over the last 20 years.

(3) On January 1, 1989, a 24-nation agreement (the Montreal Protocol) became effective, calling for the reduction in use of most CFCs and halons, and the Environmental Protection Agency has issued regulations designed to freeze production of these products at current levels.

(4) The Montreal Protocol was amended in 1990 calling for a reduction of CFC manufacturing to 50 percent of 1986 levels by 1995, further reduction to 15 percent of 1986 levels by 1997, and complete elimination by the year 2000. Due to the severity of the ozone depletion problem, however, this phaseout schedule is to be reviewed in 1992 with the objective of accelerating it still further.

(5) It is essential to the health and safety of all Californians to take such steps as are necessary to further decrease and halt the destruction of the ozone layer by CFCs and halons.

(b) The Legislature further finds and declares the following:

(1) CFCs and halons contribute actively to global warming trends which could dramatically affect the economy and stability of California, including the flooding of coastal lands, loss of crop winters, and destruction of coastal wetlands and forests.

(2) Twenty-five percent of the total amount of CFCs produced every year in the United States are needlessly released into the atmosphere through mobile air-conditioning servicing, maintenance, and leaking.

(3) CFC-12 accounts for 46 percent of California's contribution to ozone depletion from CFCs. Emissions from mobile air-conditioners are estimated to account for 27 percent of all of California's CFC-12 emissions.

(4) Actions required by the federal Clean Air Act amendments of 1990 (Public Law 101-549) will result in programs which require the recycling of CFCs used as refrigerants in existing motor vehicles and stationary systems, beginning in 1992. The severity of the ozone depletion problem, however, compels us to shift to the use of alternative refrigerants as soon as possible.

(5) Most vehicle manufacturers have indicated that they can equip a portion or all of their vehicle fleets with an alternative refrigerant by the mid- to late 1990s, if alternative products successfully complete toxicity testing by the Environmental Protection Agency by 1992.

(c) It is the intent of the Legislature by the enactment of this part to phase out the use of CFC-based refrigerants in mobile air-conditioning systems by banning the sale of any new automobile, truck, or other motor vehicle in California which utilizes CFC-based refrigerants after January 1, 1995, except as otherwise specified in subdivision (b) of Section 44473.

44471. (a) This part applies to products containing or

manufactured with CFC-11, CFC-12, and HCFC-22 which have an ozone depletion potential (ODP) of greater than .1, and have been identified by the Environmental Protection Agency as substances controlled by the Montreal Protocol on Substances that Deplete the Ozone Layer. Any reference in this part to CFC, or CFCs, means these substances.

(b) As used in this part, "vehicle air-conditioner" means mechanical vapor compression refrigeration equipment used to cool the driver's or passenger compartment of any motor vehicle.

44472. (a) On and after January 1, 1993, and prior to January 1, 1994, not more than 90 percent of the new 1993 model year or later motor vehicles equipped with vehicle air-conditioners which are certified for sale, sold, or offered for sale in this state shall utilize CFC-based products described in subdivision (a) of Section 44471.

(b) On and after January 1, 1994, and prior to January 1, 1995, not more than 75 percent of the new 1994 model year or later motor vehicles equipped with vehicle air-conditioners which are certified for sale, sold, or offered for sale in this state shall utilize those CFC-based products.

(c) On or after September 1, 1994, not more than 10 percent of all model year 1995 vehicles shall utilize those CFC-based products.

(d) On and after January 1, 1995, no person or business shall certify for sale, sell, or offer to sell a new 1995 or later model year motor vehicle equipped with a vehicle air-conditioner utilizing those CFC-based products.

44473. (a) Manufacturers of all motor vehicle models described in Section 44472 shall submit quarterly records and an annual report to the state board detailing the percentage of new models certified for sale, sold, or offered for sale in California with CFC-alternative mobile air-conditioning systems not using the CFC-based products enumerated in subdivision (a) of Section 44471. Compliance with Section 44472 shall be based on the total number of new motor vehicle models with non-CFC-based vehicle air-conditioners certified for sale, sold, or offered for sale versus the total number of new motor vehicle models with vehicle air-conditioners certified for sale, sold, or offered for sale in California each year.

(b) Each of the deadlines set forth in Section 44472 may be extended for a period of not more than two years upon a determination by the state board that chemical or technological alternatives to CFC-based products are not yet available and in sufficient supply, or that manufacturers of new motor vehicles require additional time to redesign vehicle air-conditioning systems.

(c) The state board shall adopt regulations by March 1, 1992, providing for the enforcement of this part.

44474. Any person or business that violates this part is liable for a civil penalty of five hundred dollars ($500) per incident, not to exceed five thousand dollars ($5,000) per day.

CHAPTER 875

An act to add Section 5012.2 to the Public Resources Code, relating to parks.

[Approved by Governor October 12, 1991. Filed with Secretary of State October 14, 1991.]

The people of the State of California do enact as follows:

SECTION 1. Section 5012.2 is added to the Public Resources Code, to read:

5012.2. (a) Notwithstanding any other provision of law, subsequent to the creation of an easement for a roadway connecting to Mulholland Drive through the Mulholland Scenic Corridor and Topanga State Park or other state-owned parkland, the department may impose conditions and restrictions on the development of the roadway thereon and upon contiguous portions of Mulholland Drive if the director finds that geologic or other circumstances exist which cause or may cause substantial damage to state-owned park resources.

(b) Notwithstanding any other provision of law, these conditions and restrictions, including the imposition of, and compliance with, these conditions and restrictions, shall not constitute a new project or otherwise affect the validity of recorded tract maps or other entitlements, shall supersede, preempt, and replace any conditions, restrictions, or other requirements imposed on, or in connection with those tract maps and other entitlements to the extent inconsistent with these conditions and restrictions, and shall not in any way jeopardize previously approved projects or cause a reopening of a previously completed environmental review process. This subdivision shall not be of any legal effect, for the purpose of superseding and preempting any locally imposed conditions, unless the owner of the property subject to locally imposed conditions shall pay the amount of the estimated cost savings as a result of superseding the locally imposed conditions to the Los Angeles County Transportation Commission for traffic mitigation within the San Fernando Valley Statistical Area, as defined in Section 11093 of the Government Code, on or before December 31, 1991.

CHAPTER 876

An act to add and repeal Article 6 (commencing with Section 52770) of Chapter 11 of Part 28 of the Education Code, relating to the California Youth Entrepreneur Program.

[Approved by Governor October 12, 1991 Filed with Secretary of State October 14, 1991.]

The people of the State of California do enact as follows:

SECTION 1. Article 6 (commencing with Section 52770) is added to Chapter 11 of Part 28 of the Education Code, to read:

Article 6. California Youth Entrepreneur Program

52770. There is hereby established the California Youth Entrepreneur Program. The intent of this article is to initiate the development of effective entrepreneur programs in participating high school, regional occupational centers, and unified school districts in areas of low socioeconomic status for pupils who are at least 16 years of age.

52771. The Superintendent of Public Instruction shall conduct a comprehensive three-year program to encourage pupil involvement in entrepreneurial activities. The superintendent shall select local entrepreneur programs to be funded, beginning July 1, 1992, in school districts, regional occupational centers, or county offices of education that apply, pursuant to a process to be developed by the superintendent which meets the requirements of Section 52772 and the Job Training Partnership Act, Public Law 97-300.

52772. School districts and county offices of education may submit applications to the superintendent for grants to develop and implement programs for pupil participation in entrepreneurial activities. Each school district or county office of education that wishes to apply shall do all of the following:

(a) Submit a plan outlining the proposed development of the entrepreneur program, including, but not limited to, a description of how the program will operate. Applicants shall be encouraged to collaborate with the business departments of local colleges and universities in developing the local plan.

(b) Serve pupils, in the program, who are economically disadvantaged, as defined in the Job Training Partnership Act, Public Law 97-300, as it exists on January 1, 1992, and who are susceptible to frequent absenteeism, truancy, or tardiness, or who are at risk of dropping out of school, for among other reasons, pregnancy or marriage, financial need, the lack of basic skills, or low self-esteem.

(c) Demonstrate that the program will be under direct supervision and control of the applicant school district, regional occupational center, or county office of education.

(d) Demonstrate that the program is designed to do the following:

(1) Introduce the fundamentals of entrepreneurship, and provide business education, support, and resources that are not monetary, including, but not limited to, books, cash registers, and models, for pupils to start their business.

(2) Introduce pupils to a variety of university faculty, staff, students, alumni, and representatives of the business community.

(3) Identify areas of individual pupil needs and provide resources and referrals to meet those needs.

(4) Support the development of entrepreneurial curriculum, expertise, and guidance.

52773. (a) Grants shall be awarded in accordance with the following requirements:

(1) Applicants must ensure that California Youth Entrepreneur Program participants be composed of no less than 90 percent economically disadvantaged pupils who are at least 16 years of age.

(2) The superintendent shall ensure that the application describes the program, including, but not limited to, provisions that ensure that participating pupils will learn money-management skills, economic realities and work ethics of servicing customers, time management, essential elements of managing human resources, and the fiscal resources that will be used to implement the program.

(b) Each participating school district, regional occupational center, or county office of education shall annually provide a 50 percent matching contribution of funds from local resources, exclusive of any state funding. Local resources of matching contributions may include, but are not limited to, funds provided by local businesses and industry.

52774. The superintendent shall develop criteria to evaluate the local entrepreneur program or programs operated under this article. The superintendent shall conduct program and fiscal review to do all of the following:

(a) Ensure that funds allocated pursuant to this article are expended toward the purposes of this article.

(b) Determine the effectiveness of the program and quality and effectiveness of improvements in programs that result from the activities of the California Youth Entrepreneur Program.

52775. This article shall become inoperative on July 1, 1995, and, as of January 1, 1996, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1996, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 2. It is the intent of the Legislature that each program grant be awarded to school districts and county offices of education selected to participate for a three-year period. The total amount of the program grant shall be based on the number of pupils enrolled in schools participating in the California Youth Entrepreneur Program.

SEC. 3. (a) It is the intent of the Legislature that the program specifications and the pupil population served by Article 6

(commencing with Section 52270) of Chapter 11 of Part 28 of the Education Code conform to the requirements of programs authorized by the federal Job Training Partnership Act (P.L. 97-300).

(b) The State Job Training Coordinating Council, established pursuant to Chapter 4.5 (commencing with Section 15035) of Division 8 of the Unemployment Insurance Code, is hereby encouraged to make the program established pursuant to Article 6 (commencing with Section 52270) of Chapter 11 of Part 28 of the Education Code one of its statewide funding priorities, pursuant to its authority to allocate fiscal resources under Section 15037 of the Unemployment Insurance Code.

(c) The council also is hereby encouraged to use funds available to it from the federal Job Training Partnership Act pursuant to paragraph (1) of subdivision (e) of Section 15037 of the Unemployment Insurance Code, for the support of local entrepreneur programs, including, but not limited to, technical assistance in the development and implementation of those local programs.

CHAPTER 877

An act to add Section 4108 to the Food and Agricultural Code, and to amend Section 830.3 of the Penal Code, relating to expositions and fairs, and making an appropriation therefor.

[Approved by Governor October 12, 1991 Filed with Secretary of State October 14, 1991]

The people of the State of California do enact as follows:

SECTION 1. Section 4108 is added to the Food and Agricultural Code, to read:

4108. The Executive Director of the California Museum of Science and Industry may appoint the chief and assistant chief of museum security and safety, who shall have the powers of peace officers as specified in Section 830.3 of the Penal Code. These peace officers shall provide police and security services to keep order and preserve the peace and safety of persons and property at the California Museum of Science and Industry and at Exposition Park on a year-round basis.

SEC. 2. Section 830.3 of the Penal Code is amended to read:

830.3. The following persons are peace officers whose authority extends to any place in the state for the purpose of performing their primary duty or when making an arrest pursuant to Section 836 of the Penal Code as to any public offense with respect to which there is immediate danger to person or property, or of the escape of the perpetrator of that offense, or pursuant to Section 8597 or 8598 of the Government Code. These peace officers may carry firearms only if

authorized and under those terms and conditions as are specified by their employing agencies:

(a) Persons employed by the Division of Investigation of the Department of Consumer Affairs and investigators of the Medical Board of California and the Board of Dental Examiners, who are designated by the Director of Consumer Affairs, provided that the primary duty of these peace officers shall be the enforcement of the law as that duty is set forth in Section 160 of the Business and Professions Code.

(b) Voluntary fire wardens as are designated by the Director of Forestry pursuant to Section 4156 of the Public Resources Code, provided that the primary duty of these peace officers shall be the enforcement of the law as that duty is set forth in Section 4156 of that code.

(c) Employees of the Department of Motor Vehicles designated in Section 1655 of the Vehicle Code, provided that the primary duty of these peace officers shall be the enforcement of the law as that duty is set forth in Section 1655 of that code.

(d) Investigators of the California Horse Racing Board designated by the board, provided that the primary duty of these peace officers shall be the enforcement of Chapter 4 (commencing with Section 19400) of Division 8 of the Business and Professions Code and Chapter 10 (commencing with Section 330) of Title 9 of Part 1 of the Penal Code.

(e) The State Fire Marshal and assistant or deputy state fire marshals appointed pursuant to Section 13103 of the Health and Safety Code, provided that the primary duty of these peace officers shall be the enforcement of the law as that duty is set forth in Section 13104 of that code.

(f) Inspectors of the food and drug section as are designated by the chief pursuant to subdivision (a) of Section 216 of the Health and Safety Code, provided that the primary duty of these peace officers shall be the enforcement of the law as that duty is set forth in Section 216 of that code.

(g) All investigators of the Division of Labor Standards Enforcement, as designated by the Labor Commissioner, provided that the primary duty of these peace officers shall be enforcement of the law as prescribed in Section 95 of the Labor Code.

(h) All investigators of the State Departments of Health Services, Social Services, Mental Health, Developmental Services, Alcohol and Drug Programs and the Office of Statewide Health Planning and Development, and the Public Employees' Retirement System, provided that the primary duty of these peace officers shall be the enforcement of the law relating to the duties of his or her department, or office. Notwithstanding any other provision of law, investigators of the Public Employees' Retirement System shall not carry firearms.

(i) The Chief of the Bureau of Fraudulent Claims of the Department of Insurance and those investigators as designated by

the chief, provided that the primary duty of those investigators shall be enforcement of Section 556 of the Insurance Code.

(j) Employees of the Department of Housing and Community Development designated under Section 18023 of the Health and Safety Code, provided that the primary duty of these peace officers shall be the enforcement of the law as that duty is set forth in Section 18023 of that code.

(k) Investigators of the office of the Controller, provided that the primary duty of these investigators shall be the enforcement of the law relating to the duties of that office. Notwithstanding any other provision of law, the peace officers designated pursuant to this subdivision shall not carry firearms.

(*l*) Investigators of the Department of Corporations designated by the Commissioner of Corporations, provided that the primary duty of these investigators shall be enforcement of the provisions of law administered by the Department of Corporations. Notwithstanding any other provision of law, the peace officers designated pursuant to this subdivision shall not carry firearms.

(m) Persons employed by the Contractors' State License Board designated by the Director of Consumer Affairs pursuant to Section 7011.5 of the Business and Professions Code, provided that the primary duty of these persons shall be the enforcement of the law as that duty is set forth in Section 7011.5, and in Chapter 9 (commencing with Section 7000) of Division 3, of that code. The Director of Consumer Affairs may designate as peace officers not more than three persons who shall at the time of their designation be assigned to the special investigations unit of the board. Notwithstanding any other provision of law, the persons designated pursuant to this subdivision shall not carry firearms.

(n) The chief and coordinators of the Law Enforcement Division of the Office of Emergency Services.

(o) Investigators of the Office of the Secretary of State, designated by the Secretary of State, provided that the primary duty of these peace officers shall be the enforcement of the law as prescribed in Chapter 3 (commencing with Section 8200) of Division 1 of Title 2 of the Government Code and Section 12172.5 of that code. Notwithstanding any other provision of law, the peace officers designated pursuant to this subdivision shall not carry firearms.

(p) The Deputy Director for Security, as designated by Section 8880.38 of the Government Code, and all lottery security personnel assigned to the California State Lottery and designated by the director, provided that the primary duty of any of those peace officers shall be the enforcement of the laws related to assuring the integrity, honesty, and fairness of the operation and administration of the California State Lottery.

(q) Investigators employed by the Investigation Division of the Employment Development Department, designated by the director of the department, provided that the primary duty of those peace officers shall be the enforcement of the law as that duty is set forth

in Section 317 of the Unemployment Insurance Code.

Notwithstanding any other provision of law, the peace officers designated pursuant to this subdivision shall not carry firearms.

(r) The chief and assistant chief of museum security and safety of the California Museum of Science and Industry, as designated by the executive director pursuant to Section 4108 of the Food and Agricultural Code, provided that the primary duty of those peace officers shall be the enforcement of the law as that duty is set forth in Section 4108 of the Food and Agricultural Code.

CHAPTER 878

An act to amend Section 743 of the Public Utilities Code, relating to public utilities.

[Approved by Governor October 12, 1991. Filed with Secretary of State October 14, 1991]

The people of the State of California do enact as follows:

SECTION 1. Section 743 of the Public Utilities Code is amended to read:

743. (a) As used in this section, "steel producer" means a producer of steel products in California which in 1981 or any subsequent year produced at least 75,000 tons of rolled or finished steel and which has a maximum demand for electricity of 4,000 kilowatts or more at one plant location. Any steel producer which transfers any substantial amount of employment from its facilities in this state to any out-of-state facility or otherwise substantially reduces employment at its facilities in this state below the June 30, 1985, level, or fails to maintain and make reasonable and prudent investments in its facilities, as determined by the commission, is ineligible for any electric rate established pursuant to this section.

(b) As used in this section, "frozen food processor" means a corporation or person engaged in the processing of food in California, which food is classified according to the Standard Industrial Classification Manual, 1972, in Industry No. 2037 and Industry No. 2038 of Group 203, of Food and Kindred Products Major Group 20, as specified in Section 2900.3 of Title 7 of the Code of Federal Regulations. "Processing of food" includes the postprocessing storage of frozen food in a warehouse, or other facility, until the frozen food leaves the control or responsibility of the frozen food processor or until the frozen food processor no longer has an obligation to store the food.

(c) As used in this section, "system average rate" means total jurisdictional revenues of the electrical corporation divided by total jurisdictional sales.

(d) Every electrical corporation furnishing electricity to a steel

producer, frozen food processor, or other heavy-industry customer, as determined and specified by the electrical corporation, shall prepare and file tariffs providing rates which shall be lower than the system average rate and take into consideration all of the following:

(1) Specific service requirements of individual customers, including, but not limited to, reliability, interruptability, quantity of use, and requirements of voltage.

(2) Incentives to achieve conservation, improvements in efficiency, and time-of-day load shifting.

(3) Implementation at the option of the customer.

(4) Cost of service.

(e) The commission shall consider and approve tariffs which shall be consistent with this section and which shall be in effect on and after July 1, 1992.

(f) The commission may approve contracts between an electrical corporation and its heavy industrial customers as determined by the electrical corporation, of not more than ten years' duration, in which the electrical corporation buys from the heavy industrial customer the right to interrupt the customer's service on short notice, as determined by the commission. The payment mechanism may include a discounted rate for service. In approving and determining the reasonableness of these contracts, the commission may consider, among other things, the price paid by the electrical corporation for the right to interrupt, the value of that right to the utility system and its ratepayers, and the benefits to the ratepayers and the people of the state of retaining heavy industrial customers. Throughout the term of any of these contracts, the commission shall have the right to amend the contract. Every contract subject to this subdivision shall include a provision indicating that the contract is subject to amendment by the commission as provided in this subdivision. This subdivision does not supersede the requirement of subdivision (d) that the commission establish a heavy industrial tariff.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 879

An act to add Chapter 12.5 (commencing with Section 50835) to Part 2 of Division 31 of the Health and Safety Code, relating to housing.

[Approved by Governor October 12, 1991. Filed with Secretary of State October 14, 1991.]

The people of the State of California do enact as follows:

SECTION 1. Chapter 12.5 (commencing with Section 50835) is added to Part 2 of Division 31 of the Health and Safety Code, to read:

CHAPTER 12.5. CALIFORNIA HOME AND HOMEOWNERSHIP AND OPPORTUNITY FOR PEOPLE EVERYWHERE (HOPE FOR CALIFORNIA PROGRAM)

50835. (a) The Legislature finds and declares all of the following:

(1) In 1990, the Cranston-Gonzalez National Affordable Housing Act was enacted by the Congress and President of the United States as Public Law 101-625. The act affirms as a national goal that every American family be able to afford a decent home in a suitable environment. The act authorizes fifty-two billion dollars ($52,000,000,000) of expenditures on housing and community development during federal fiscal years 1991 and 1992.

(2) Titles II and IV of the National Affordable Housing Act enacted the HOME Investment Partnerships Act programs and the Homeownership and Opportunity for People Everywhere (HOPE) program, respectively. A requirement of the HOME and HOPE legislation is that a portion of the funding for each recipient project shall be matched by funds from nonfederal sources in order to carry out the homeownership program.

(b) In enacting this chapter, it is therefore the intent of the Legislature to provide a mechanism for California to fulfill the nonfederal matching funds requirements.

50836. (a) Local government agencies may exempt, for a period of up to 20 years, from local taxes, fees, or assessments, any housing project owned or operated by a nonprofit entity, a for-profit entity, a limited equity cooperative, or any other entity which qualifies for, and receives, federal aid under either Title II or IV of the Cranston-Gonzalez National Affordable Housing Act (Public Law 101-625).

(b) Redevelopment agencies which use their non-low- and moderate-income funds to participate in funding projects which also receive funding pursuant to either Title II or IV of the Cranston-Gonzalez National Affordable Housing Act (Public Law 101-625) shall include that activity in their annual reports prepared pursuant to Section 33080.1.

(c) The California Housing Insurance Fund may use its resources to assist nonprofit corporations exempt from federal income taxes pursuant to Section 501(c)(3) of the Internal Revenue Code, redevelopment agencies, local finance agencies, and for-profit corporations which receive funding pursuant to either Title II or IV of the Cranston-Gonzalez National Affordable Housing Act (Public Law 101-625).

50837. (a) The Advisory Task Force on Affordable Housing is hereby created in the Department of Housing and Community Development to provide advisory recommendations on methods by which state housing programs may be restructured in order to benefit the greatest number of Californians by obtaining maximum federal funding under the Cranston-Gonzalez National Affordable Housing Act (Public Law 101-625), and, particularly, under Titles II and IV thereof. As part of the report, the Treasurer shall study, and report to the task force, about how the state bond programs can be counted as part of the nonfederal match and how they might specifically fund the HOME and HOPE programs.

(b) The members of the task force shall include the Director of Housing and Community Development, who shall serve as chairperson of the task force, the Controller, the Treasurer, the Director of the Department of Veterans Affairs, and the Executive Director of the California Housing Finance Agency, or their respective designees. The task force shall meet as deemed necessary by the chairperson.

(c) Each member of the task force shall serve without compensation, but shall be reimbursed for actual and necessary expenses incurred in the performance of his or her duties by his or her respective public agency.

(d) The task force shall be supported by a reasonable amount of staff time, which shall be provided by the agencies represented on the task force to the extent feasible within their existing resources.

(e) The task force may request data from, and shall utilize the technical expertise of, other state agencies.

(f) On or before April 15, 1992, the task force shall submit its written report to the Legislature.

SEC. 2. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 880

An act to amend Sections 700, 900.7, 1592, 1855.1, 1855.2, 1855.3, 1855.4, and 1855.5 of, and to add Section 12921.2 to, the Insurance Code, relating to insurance, and making an appropriation therefor.

[Approved by Governor October 12, 1991 Filed with Secretary of State October 14, 1991.]

The people of the State of California do enact as follows:

SECTION 1. Section 700 of the Insurance Code is amended to read:

700. (a) A person shall not transact any class of insurance business in this state without first being admitted for that class. Admission is secured by procuring a certificate of authority from the commissioner. The certificate shall not be granted until the applicant conforms to the requirements of this code and of the laws of this state prerequisite to its issue.

(b) The unlawful transaction of insurance business in this state in willful violation of the requirement for a certificate of authority is a public offense punishable by imprisonment in the state prison, or in a county jail not exceeding one year, or by fine not exceeding one hundred thousand dollars ($100,000), or by both, and shall be enjoined by a court of competent jurisdiction on petition of the commissioner.

(c) After the issuance of a certificate of authority, the holder shall continue to comply with the requirements as to its business set forth in this code and in the other laws of this state.

(d) Where a hearing is held under this section the proceedings shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the commissioner shall have all the powers granted therein.

(e) The commissioner shall either issue or deny an application for a certificate of authority within 180 calendar days after the date of the application.

(f) The commissioner and his or her authorized representative shall be prohibited from seeking a waiver to extend the 180 calendar day period specified in subdivision (e), nor shall the applicant be permitted to waive that period.

SEC. 2. Section 900.7 of the Insurance Code is amended to read:

900.7. The statements required by Section 900 shall be filed, in quadruplicate, by the insurer with the office of the department in Los Angeles. Upon receipt of the four copies, the commissioner shall ensure that one copy is maintained at the department's office in Los Angeles, one copy at the department's office in San Francisco, and one copy at the department's office in Sacramento.

SEC. 3. Section 1592 of the Insurance Code is amended to read:

1592. The statement required by Section 1591 shall be verified in the manner prescribed in Sections 903 and 903.5 and there shall be filed therewith the certificate of each trustee in the United States holding trusteed assets of the alien insurer, showing the description and amount of the trusteed assets, and the purpose for which they are held. The statement shall be filed in quadruplicate by the alien insurer with the office of the department in Los Angeles. Upon receipt of the four copies, the commissioner shall ensure that one copy is maintained at the department's office in Los Angeles, one copy at the department's office in San Francisco, and one copy at the department's office in Sacramento.

The commissioner may at other times require any admitted alien insurer to file with him or her similar statements, showing the information specified in Section 1591 with respect to such other date as he or she may prescribe.

SEC. 4. Section 1855.1 of the Insurance Code is amended to read:

1855.1. It is the intent of the Legislature in enacting this article to promote competition in the insurance business and provide a means whereby insurance consumers can more easily comparison shop for insurance coverage by allowing insurance advisory organizations to develop and draft for use by all insurers in California common forms, coverages, endorsements, and manuals for insurance policies and bonds.

SEC. 5. Section 1855.2 of the Insurance Code is amended to read:

1855.2. As used in this article, "advisory organization" means every group, association, or other organization of insurers, whether located within or outside of this state, that develops and prepares policy or bond forms, or manuals, for use by admitted insurers, carries on research relative to the development and preparation of policy and bond forms, and acts in an advisory, as distinguished from a ratemaking, capacity.

Every advisory organization shall, prior to operation, file with the commissioner (a) a copy or its constitution, its articles of agreement or association, or its certificate of incorporation, and its bylaws, rules, and regulations governing its activities, (b) a list of its members, and (c) the name and address of a resident of this state upon whom notices or orders of the commissioner or process issued at his or her direction may be served. Every advisory organization shall thereafter promptly notify the commissioner of every material change in the documents required to be filed with the commissioner.

SEC. 6. Section 1855.3 of the Insurance Code is amended to read:

1855.3. Two or more insurers may cooperate with and act in concert with others as members of an advisory organization with respect to any matters pertaining to the preparation or making of insurance policy or bond forms, or manuals, or carrying on of research relative to the preparation and development of policy or bond forms, or manuals.

SEC. 7. Section 1855.4 of the Insurance Code is amended to read:

1855.4. Members and subscribers of advisory organizations may

use the policy or bond forms, or manuals, of advisory organizations, either consistently or intermittently, but, except for insurers having common ownership or management, shall not agree with each other or others to adhere thereto. The fact that two or more admitted insurers, whether or not members or subscribers of an advisory organization, use, either consistently or intermittently, the policy or bond forms, or manuals, prepared by an advisory organization, shall not be sufficient in itself to support a finding that an agreement to adhere to those forms or manuals exists, and may be used only for the purpose of supplementing or explaining direct evidence of the existence of an agreement to adhere to those forms or manuals.

SEC. 8. Section 1855.5 of the Insurance Code is amended to read:

1855.5. (a) All insurance policy or bond forms, or manuals of an advisory organization shall prior to being used by insurers be submitted in writing to the commissioner for his or her consideration and approval, together with any information the commissioner may reasonably require. All of those documents shall be available for public inspection at the office of the commissioner. The commissioner shall approve only those policy forms or bonds forms, or manuals, that are found by him or her to contemplate activities and practices that are not unfair, unreasonable, or otherwise inconsistent with the provisions of this code.

(b) Upon submission of any policy forms or bond forms, or manuals, the commissioner may review them, and if after a hearing, at which representatives of consumers and other interested parties may participate, upon not less than 10 days' notice to an advisory organization he or she finds that the policy forms or bond forms, or manuals, are unfair or unreasonable, or are otherwise inconsistent with the provisions of this chapter, he or she may issue a written order to the advisory organization specifying in what respect the policy forms, bond forms, or manuals, are unfair or unreasonable or otherwise inconsistent with the provisions of this chapter and disapprove the use of the forms or manuals. Notwithstanding the provisions of this section, if the commissioner fails to act within 90 days of the submission of a proposed policy or bond form, or manual by an advisory organization, the policy or bond form, or manual, shall be deemed approved. For good cause, and after a hearing, at which representatives of consumers and other interested parties may participate, upon not less than 10 days' notice to the advisory organization, the commissioner may revoke approval of any policy form or bond form or manual.

(c) Nothing in this chapter shall be interpreted to allow an advisory organization to set or establish rates for any insurance coverage, policy endorsement, or bond.

SEC. 9. Section 12921.2 is added to the Insurance Code, to read:

12921.2. All public records of the department and the commissioner subject to disclosure under Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code shall be available for inspection and copying pursuant to those

provisions at the offices of the department in the City and County of San Francisco, in the City of Los Angeles, and in the City of Sacramento. Adequate copy facilities for this purpose shall be made available. Notwithstanding any other provision of law, a person requesting copies of these records shall receive the copies from employees of the department and the fee charged for the copies shall not exceed the actual cost of producing the copies. Notwithstanding Section 6256 of the Government Code, any public record submitted to the department as computer data on an electronic medium shall, in addition to any other formats, be made available to the public pursuant to this section through an electronic medium.

CHAPTER 881

An act to amend Section 50965 of the Government Code, relating to retirement.

[Approved by Governor October 12, 1991 Filed with Secretary of State October 14, 1991]

The people of the State of California do enact as follows:

SECTION 1. Section 50965 of the Government Code is amended to read:

50965. (a) The award shall consist of one hundred dollars ($100) per month for life reduced proportionately for service less than 20 years.

(b) (1) A supplemental amount, not to exceed fifty dollars ($50), may be added to the award, based on an actuarial analysis of the condition of the fund as determined by the board. The amount shall be reviewed annually by the board to ensure that it remains consistent with the maintenance of adequate actuarial reserves.

(2) Supplemental payments shall not commence until any outstanding loan to the Volunteer Firefighters Length of Service Award System has been repaid to the General Fund.

CHAPTER 882

An act to add Section 74351.5 to the Government Code, relating to courts.

[Approved by Governor October 12, 1991 Filed with Secretary of State October 14, 1991]

The people of the State of California do enact as follows:

SECTION 1. Section 74351.5 is added to the Government Code, to read:

74351.5. The San Diego Municipal Court may establish a "900" telephone number or numbers for traffic, misdemeanor, and other telephonic arraignment, for court scheduling, and for rendering tentative civil decisions, provided the court provides an alternative method of obtaining the service or information in a timely manner and informs individuals of this alternative in the message, where technically and economically feasible, preceding the "900" information. The proceeds from these "900" telephone numbers shall be continuously and solely appropriated to the use of the San Diego Municipal Court for staff, information, and data processing services for the purposes specified in this section.

CHAPTER 883

An act to amend Section 754 of, and to add and repeal Section 755 of, the Evidence Code, and to amend, add, and repeal Section 68562 of the Government Code, relating to courts.

[Approved by Governor October 12, 1991 Filed with Secretary of State October 14, 1991]

The people of the State of California do enact as follows:

SECTION 1. Section 754 of the Evidence Code is amended to read:

754. (a) As used in this section, "deaf or hard-of-hearing person" means a person with a hearing loss so great as to prevent his or her understanding language spoken in a normal tone, but does not include a hard-of-hearing person provided with, and able to fully participate in the proceedings through the use of, an assistive listening system or computer-aided transcription equipment provided pursuant to Section 54.8 of the Civil Code.

(b) In any civil or criminal action, including any action involving a traffic or other infraction or any juvenile court proceeding, or any proceeding to determine the mental competency of a person, or any administrative hearing, where a party or witness is a deaf or

hard-of-hearing person and the deaf or hard-of-hearing person is present and participating, the proceedings shall be interpreted in a language that the deaf or hard-of-hearing person understands by a qualified interpreter appointed by the court, tribunal, hearing officer, or other appropriate authority, or as agreed upon by the parties.

(c) For purposes of this section, "appointing authority" means a court, department, board, commission, agency, licensing or legislative body, or other body for proceedings requiring a qualified interpreter.

(d) For the purposes of this section, "interpreter" includes, but is not limited to, an oral interpreter, a sign language interpreter, or a deaf-blind interpreter, depending upon the needs of the deaf or hard-of-hearing person.

(e) For purposes of this section, "intermediary interpreter" means a deaf, hard-of-hearing, or hearing person who is able to assist in providing an accurate interpretation between spoken English and sign language or between variants of sign language or between American Sign Language and other foreign languages by acting as an intermediary between the deaf person and the qualified interpreter.

(f) For purposes of this section, "qualified interpreter" means an interpreter who has been certified as competent to interpret court proceedings by a testing organization, agency, or educational institution approved by the Judicial Council as qualified to administer tests to court interpreters for the deaf or hard-of-hearing.

(g) In the event that the appointed interpreter is not familiar with the deaf or hard-of-hearing person's use of particular signs or his or her particular variant of sign language, the court or other appointing authority shall, in consultation with the deaf or hard-of-hearing person or his or her representative, appoint an intermediary interpreter.

(h) Prior to July 1, 1992, the Judicial Council shall conduct a study to establish the guidelines pursuant to which it shall determine which testing organizations, agencies, or educational institutions will be approved to administer tests for certification of court interpreters for the deaf and hard-of-hearing. It is the intent of the Legislature that the study obtain the widest possible input from the public, including, but not limited to, educational institutions, the judiciary, linguists, members of the State Bar, court interpreters, members of professional interpreting organizations, and members of the deaf and hard-of-hearing communities. After obtaining public comment and completing its study, the Judicial Council shall publish these guidelines and shall approve one or more entities to administer testing for court interpreters for the deaf and hard-of-hearing. Initial approval of testing entities by the Judicial Council shall occur prior to July 1, 1992.

Commencing July 1, 1992, court interpreters for the deaf or hard-of-hearing shall meet the qualifications specified in subdivision (f).

(i) Persons appointed to serve as interpreters under this section shall be paid, in addition to actual travel costs, the prevailing rate paid to persons employed by the court to provide other interpreter services unless such service is considered to be a part of the person's regular duties as an employee of the state, county, or other political subdivision of the state. Payment of the interpreter's fee shall be a charge against the county, or other political subdivision of the state, in which such action is pending. Payment of the interpreter's fee in administrative proceedings shall be a charge against the appointing board, agency, commission, or licensing authority.

(j) No statement, written or oral, made by a person who is deaf or hard-of-hearing in reply to a question of a peace officer, or any other person having a prosecutorial function in any criminal or quasi-criminal investigation or proceeding, may be used against that deaf or hard-of-hearing person unless the statement was made knowingly, voluntarily, and intelligently and was accurately interpreted, or the court makes a special finding that the statement was made knowingly, voluntarily, and intelligently.

(k) In obtaining services of an interpreter for the purpose of obtaining a statement subject to subdivision (j), priority shall be given to first obtaining a qualified interpreter.

(*l*) Nothing in subdivision (j) or (k) shall be deemed to supersede the requirement of subdivision (b) for use of a qualified interpreter for deaf or hard-of-hearing persons participating as parties or witnesses in a trial or hearing.

(m) In any action or proceeding in which a deaf or hard-of-hearing person is a participant, the court or administrative authority shall not commence proceedings until the appointed interpreter is in full view of and spatially situated to assure proper communication with the deaf or hard-of-hearing person or persons involved as participants.

(n) Each superior court shall maintain a current roster of qualified interpreters certified pursuant to subdivision (f).

SEC. 2. Section 755 is added to the Evidence Code, to read:

755. (a) In any proceeding in a civil action for which a record is being made, excluding any action prosecuted in small claims court, in which a party does not proficiently speak or understand the English language and that person is present, an interpreter shall be present to interpret the proceedings in a language that the person understands, and to assist communication between the person and his or her attorney. The interpreter shall be selected from the list of recommended interpreters published pursuant to Article 4 (commencing with Section 68560) of Chapter 2 of Title 8 of the Government Code, unless good cause is found by the judge for the appointment of an interpreter not on the recommended list.

(b) During any medical examination, requested by an insurer or by the defendant, of a person who is a party to a civil action and who does not proficiently speak or understand the English language, conducted for the purpose of determining damages in a civil action,

an interpreter shall be present to interpret the examination in a language that the person understands. The interpreter shall be selected from the list of recommended interpreters published pursuant to Article 4 (commencing with Section 68560) of Chapter 2 of Title 8 of the Government Code.

(c) The fees of interpreters utilized under subdivision (a) shall be paid as provided in Section 68092 of the Government Code. The fees of interpreters utilized under subdivision (b) shall be paid by the insurer or defendant requesting the medical examination.

(d) (1) In any civil action in which an interpreter is required under subdivision (a), the court shall not commence proceedings until the appointed interpreter is present and situated near the party and his or her attorney.

(2) The record of, or testimony concerning, any medical examination conducted in violation of subdivision (b) shall be inadmissible in the civil action for which it was conducted or any other civil action.

(e) This section does not prohibit the presence of any other person to assist a party.

(f) This section shall remain in effect only until January 1, 1993, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1993, deletes or extends that date.

SEC. 3. Section 68562 of the Government Code is amended to read:

68562. (a) Any appropriation that provides funding for court interpreter services shall identify the county and the court interpreter programs to which it applies. For each county thus designated, beginning one year after the effective date of the designation, the State Personnel Board shall establish, maintain, and publish a list of recommended court interpreters, and the trial courts of each county shall utilize only the services of those recommended interpreters unless good cause is found by the judge for the appointment of an interpreter not on the recommended list.

In establishing a list of recommended court interpreters, the State Personnel Board shall select from a list of qualified candidates who have successfully demonstrated proficiency, both written and oral, in an examination conducted by the State Personnel Board. The courts may also impose additional testing requirements and consider additional standards, as necessary for equity or to recognize local conditions.

The State Personnel Board shall establish minimum standards of proficiency of language skills, both written and oral, in both English and the language to be interpreted. In establishing these criteria, the State Personnel Board shall take into account standards adopted by the Judicial Council to ensure a court interpreter's understanding of the technical terminology and procedures used in the courts. The State Personnel Board shall administer an appropriate examination and shall publish and make available to every trial court a list of recommended interpreters as frequently as needed to ensure that

qualified interpreters are available. The State Personnel Board shall also administer a separate specialty examination for knowledge of medical terminology, and shall publish and make available to every trial court a list of recommended interpreters who have passed the specialty examination as frequently as needed to ensure that these interpreters are available.

(b) This section shall remain in effect only until January 1, 1993, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1993, deletes or extends that date.

SEC. 4. Section 68562 is added to the Government Code, to read:

68562. (a) Any appropriation that provides funding for court interpreter services shall identify the county and the court interpreter programs to which it applies. For each county thus designated, beginning one year after the effective date of the designation, the State Personnel Board shall establish, maintain, and publish a list of recommended court interpreters, and the trial courts of each county shall utilize only the services of those recommended interpreters unless good cause is found by the judge for the appointment of an interpreter not on the recommended list.

In establishing a list of recommended court interpreters, the State Personnel Board shall select from a list of qualified candidates who have successfully demonstrated proficiency, both written and oral, in an examination conducted by the State Personnel Board. The courts may also impose additional testing requirements and consider additional standards, as necessary for equity or to recognize local conditions.

The State Personnel Board shall establish minimum standards of proficiency of language skills, both written and oral, in both English and the language to be interpreted. In establishing these criteria, the State Personnel Board shall take into account standards adopted by the Judicial Council to ensure a court interpreter's understanding of the technical terminology and procedures used in the courts. The State Personnel Board shall administer an appropriate examination and shall publish and make available to every trial court a list of recommended interpreters as frequently as needed to ensure that qualified interpreters are available.

(b) This section shall become operative on January 1, 1993.

CHAPTER 884

An act to amend Section 1981 of the Education Code, relating to county community schools.

[Approved by Governor October 12, 1991. Filed with Secretary of State October 14, 1991.]

The people of the State of California do enact as follows:

SECTION 1. Section 1981 of the Education Code is amended to read:

1981. The county board of education may enroll in community schools any of the following:

(a) Pupils who have been expelled from a school while attending either continuing classes, opportunity classes, or alternative classes.

(b) Pupils who have been referred to county community schools by a school district as a result of the recommendation by a school attendance review board or pupils whose school districts of attendance have, at the request of the pupil's parent or guardian, approved the pupil's enrollment in a county community school.

(c) Pupils who are probation-referred pursuant to Sections 300, 601, 602, and 654 of the Welfare and Institutions Code, or who are on probation or parole and who are not in attendance in any school.

(d) Homeless children.

SEC. 2. Notwithstanding Item 6110-106-001 of Section 2.00 of the Budget Act of 1991, as set forth in Chapter 118 of the Statutes of 1991, Provision 8 of that item shall not apply to the enrollment of any homeless child in a county community school pursuant to subdivision (d) of Section 1981 of the Education Code.

CHAPTER 885

An act to amend Section 25187 of the Health and Safety Code, relating to hazardous waste.

[Approved by Governor October 12, 1991 Filed with Secretary of State October 14, 1991.]

The people of the State of California do enact as follows:

SECTION 1. Section 25187 of the Health and Safety Code is amended to read:

25187. (a) Whenever the department determines that any person has violated, is in violation of, or threatens, as defined in subdivision (e) of Section 13304 of the Water Code to violate, this chapter, Chapter 6.8 (commencing with Section 25300), or Article 3 (commencing with Section 25810) of Chapter 7.6, of this division, or

any permit, rule, regulation, standard, or requirement issued or adopted pursuant to this chapter, Chapter 6.8 (commencing with Section 25300), or Article 3 (commencing with Section 25810) of Chapter 7.6, of this division, or the department determines that there is or has been a release, as defined in Chapter 6.8 (commencing with Section 25300), of hazardous waste or constituents into the environment from a hazardous waste facility, the department may issue an order specifying a schedule for compliance or correction. An order issued pursuant to this section shall include a requirement that the person take corrective action with respect to hazardous waste, including the cleanup of the hazardous waste, abatement of the effects thereof, and any other necessary remedial action. An order issued pursuant to this section which requires corrective action at a hazardous waste facility shall require that corrective action be taken beyond the facility boundary, where necessary to protect human health or the environment. The order shall incorporate as a condition of the order any applicable waste discharge requirements issued by the State Water Resources Control Board or a California regional water quality control board, and shall be consistent with all applicable water quality control plans adopted pursuant to Section 13170 of the Water Code and Article 3 (commencing with Section 13240) of Chapter 4 of Division 7 of the Water Code and state policies for water quality control adopted pursuant to Article 3 (commencing with Section 13140) of Chapter 3 of Division 7 of the Water Code existing at the time of the issuance of the order, to the extent that the department determines that those plans and policies are not less stringent than this chapter and regulations adopted pursuant to this chapter. The department may also include any more stringent requirement which the department determines is necessary or appropriate to protect water quality. Persons who are subject to an order pursuant to this section include present and prior owners, lessees, or operators of the property where the hazardous waste is located, present or past generators, storers, treaters, transporters, disposers, and handlers of hazardous waste, and persons who arrange, or have arranged, by contract or other agreement, to store, treat, transport, dispose of, or otherwise handle hazardous waste.

(b) For purposes of subdivision (a), "hazardous waste facility" includes the entire site that is under the control of an owner or operator engaged in the management of hazardous waste.

(c) Any order issued pursuant to subdivision (a) shall be served by personal service or certified mail and shall inform the person so served of the right to a hearing.

(d) Any person served with an order pursuant to subdivision (c) who has been unable to resolve any violation or deficiency on an informal basis with the department, may, within 10 days after service of the order, request a hearing by filing with the department a notice of defense. A notice of defense shall be deemed filed within the 10-day period provided by this subdivision if it is postmarked within that 10-day period. If no notice of defense is filed within the time

limits provided by this subdivision, the order shall become final.

(e) If a person served with an order pursuant to subdivision (c) chooses to resolve the content, terms, or conditions of the order directly with the department and does not file an administrative or judicial appeal, the person may request, and the department shall prepare, a written statement, which the department shall amend into the order, which explains the violation and the penalties applied, including the nature, extent, and gravity of the violation and a brief description of any mitigating circumstances and any explanations by the respondent. Any amendment to include the written statement prepared pursuant to this subdivision does not constitute a new order and does not create new appeal rights.

(f) Any hearing requested under subdivision (d) shall be conducted by an independent hearing officer, in accordance with the procedures specified in Sections 11507 to 11517, inclusive, of the Government Code, except as otherwise specified in this section. In making a determination, the hearing officer shall take into consideration the nature, circumstances, extent, and gravity of the violation and the various abatement and cleanup remedies which are appropriate in the given circumstances and which are consistent with the primary emphasis of protecting the public health and safety and the environment. After conducting any hearing requested under subdivision (d), the hearing officer shall, within 30 days after the case is submitted, issue a decision, including any order, if appropriate. The hearing officer's decision, including any order issued therewith, shall be served by the department on each party by personal service or by certified mail.

(g) Any provision of an order issued under subdivision (a) shall take effect upon issuance by the department if the department finds that the violation or violations of law associated with that provision may pose an imminent and substantial endangerment to the public health or safety or the environment, and a request for a hearing shall not stay the effect of that provision of the order pending a decision by the hearing officer under subdivision (f). However, in the event that the department determines that any or all provisions of the order are so related that the public health or safety or the environment can be protected only by immediate compliance with the order as a whole, then the order as a whole shall take effect upon issuance by the department and a request for a hearing shall not stay the effect of the order as a whole pending a decision by the hearing officer under subdivision (f). Any order issued after a hearing requested under subdivision (d) shall take effect upon issuance by the hearing officer.

(h) Within 30 days after service of a copy of a decision issued by the hearing officer, any person so served may file with the superior court a petition for writ of mandate for review of the decision. Any person who fails to file the petition within this 30-day period may not challenge the reasonableness or validity of a decision or order of the hearing officer in any judicial proceedings brought to enforce the

decision or order or for other remedies. Except as otherwise specified in this section, Section 1094.5 of the Code of Civil Procedure shall govern the proceedings conducted pursuant to this subdivision. In all proceedings pursuant to this subdivision, the court shall uphold the decision of the hearing officer if the decision is based upon substantial evidence in the whole record. The filing of a petition for writ of mandate shall not stay any corrective action required pursuant to this chapter or the accrual of any penalties assessed pursuant to this chapter. This subdivision does not prohibit the court from granting any appropriate relief within its jurisdiction.

SEC. 2. Section 25187 of the Health and Safety Code is amended to read:

25187. (a) Whenever the department or a local health officer authorized pursuant to Section 25187.7 determines that any person has violated, is in violation of, or threatens, as defined in subdivision (e) of Section 13304 of the Water Code to violate, this chapter, Chapter 6.8 (commencing with Section 25300), or Article 3 (commencing with Section 25810) of Chapter 7.6, of this division, or any permit, rule, regulation, standard, or requirement issued or adopted pursuant to this chapter, Chapter 6.8 (commencing with Section 25300), or Article 3 (commencing with Section 25810) of Chapter 7.6, of this division, or the department or an authorized local health officer determines that there is or has been a release, as defined in Chapter 6.8 (commencing with Section 25300), of hazardous waste or constituents into the environment from a hazardous waste facility, the department or authorized local health officer may issue an order specifying a schedule for compliance or correction and imposing an administrative penalty for any violation of this chapter or any permit, rule, regulation, standard, or requirement issued or adopted pursuant to this chapter.

(1) An order issued pursuant to this section shall include a requirement that the person take corrective action with respect to hazardous waste, including the cleanup of the hazardous waste, abatement of the effects thereof, and any other necessary remedial action. An order issued pursuant to this section which requires corrective action at a hazardous waste facility shall require that corrective action be taken beyond the facility boundary, where necessary to protect human health or the environment. The order shall incorporate as a condition of the order any applicable waste discharge requirements issued by the State Water Resources Control Board or a California regional water quality control board, and shall be consistent with all applicable water quality control plans adopted pursuant to Section 13170 of the Water Code and Article 3 (commencing with Section 13240) of Chapter 4 of Division 7 of the Water Code and state policies for water quality control adopted pursuant to Article 3 (commencing with Section 13140) of Chapter 3 of Division 7 of the Water Code existing at the time of the issuance of the order, to the extent that the department or authorized local health officer determines that those plans and policies are not less

stringent than this chapter and regulations adopted pursuant to this chapter. The department or authorized local health officer may also include any more stringent requirement which the department or authorized local health officer determines is necessary or appropriate to protect water quality. Persons who are subject to an order pursuant to this section include present and prior owners, lessees, or operators of the property where the hazardous waste is located, present or past generators, storers, treaters, transporters, disposers, and handlers of hazardous waste, and persons who arrange, or have arranged, by contract or other agreement, to store, treat, transport, dispose of, or otherwise handle hazardous waste.

(2) In an order proposing a penalty pursuant to this section, the department shall take into consideration the nature, circumstances, extent, and gravity of the violation, the violator's past and present efforts to prevent, abate, or clean up conditions posing a threat to the public health or safety or the environment, the violator's ability to pay the proposed civil penalty, and the prophylactic effect that imposition of the proposed penalty will have on both the violator and on the regulated community as a whole.

(b) For purposes of subdivision (a), "hazardous waste facility" includes the entire site that is under the control of an owner or operator engaged in the management of hazardous waste.

(c) Any order issued pursuant to subdivision (a) shall be served by personal service or certified mail and shall inform the person so served of the right to a hearing.

(d) Any person served with an order pursuant to subdivision (c) who has been unable to resolve any violation or deficiency on an informal basis with the department or authorized local health officer may, within 15 days after service of the order, request a hearing by filing with the department or authorized local health officer a notice of defense. The notice shall be filed with the office that issued the order. A notice of defense shall be deemed filed within the 15-day period provided by this subdivision if it is postmarked within that 15-day period. If no notice of defense is filed within the time limits provided by this subdivision, the order shall become final.

(e) If a person served with an order pursuant to subdivision (c) chooses to resolve the content, terms, or conditions of the order directly with the department or authorized local health officer and does not file an administrative or judicial appeal, the person may request, and the department or authorized local health officer shall prepare, a written statement, which the department or authorized local health officer shall amend into the order, which explains the violation and the penalties applied, including the nature, extent, and gravity of the violations and a brief description of any mitigating circumstances and any explanations by the respondent. Any amendment to include the written statement prepared pursuant to this subdivision does not constitute a new order and does not create new appeal rights.

(f) Except as provided in subdivision (g), any hearing requested

under subdivision (d) shall be conducted within 90 days after receipt of the notice of defense by an administrative law judge of the Office of Administrative Hearings of the Department of General Services in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the department shall have all the authority granted to an agency by those provisions.

(g) Any provision of an order issued under subdivision (a), except the imposition of an administrative penalty, shall take effect upon issuance by the department if the department finds that the violation or violations of law associated with that provision may pose an imminent and substantial endangerment to the public health or safety or the environment, and a request for a hearing shall not stay the effect of that provision of the order pending a decision by the department under subdivision (e). However, in the event that the department determines that any or all provisions of the order are so related that the public health or safety or the environment can be protected only by immediate compliance with the order as a whole, then the order as a whole, except the imposition of an administrative penalty, shall take effect upon issuance by the department. A request for a hearing shall not stay the effect of the order as a whole pending a decision by the hearing officer under subdivision (e). Any order issued after a hearing requested under subdivision (d) shall take effect upon issuance by the department.

(h) A decision issued pursuant to this section may be reviewed by the court pursuant to Section 11523 of the Government Code. In all proceedings pursuant to this subdivision, the court shall uphold the decision of the department if the decision is based upon substantial evidence in the whole record. The filing of a petition for writ of mandate shall not stay any corrective action required pursuant to this chapter or the accrual of any penalties assessed pursuant to this chapter. This subdivision does not prohibit the court from granting any appropriate relief within its jurisdiction.

(i) Except as otherwise provided in subdivisions (j) and (k), all administrative penalties collected under this section shall be placed in a separate subaccount in the Hazardous Waste Control Account and shall be available for expenditure by the department only upon appropriation by the Legislature.

(j) Fifty percent of the penalties collected from actions brought by local health officers pursuant to this section shall be paid to the city or county whose local health officer imposed the penalty and shall be deposited into a special account which may be expended to fund the activities of the local health officer in enforcing this chapter pursuant to Section 25180, after the director determines that the local agency enforcement of this section is fair and reasonable.

(k) Fifty percent of the penalties collected from actions brought by local health officers pursuant to this section shall be paid to the department and deposited in the Hazardous Waste Control Account for expenditure by the department, upon appropriation by the

Legislature, in connection with activities of local health officers.

SEC. 3. Section 2 of this bill incorporates amendments to Section 25187 of the Health and Safety Code proposed by both this bill and SB 966. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1992, (2) each bill amends Section 25187 of the Health and Safety Code, and (3) this bill is enacted after SB 966, in which case Section 1 of this bill shall not become operative.

CHAPTER 886

An act to amend Sections 25187, 25189.2, and 25189.5 of, to add Section 25110.2 to, to add and repeal Section 25187.7 of, and to repeal Section 25189.3 of, the Health and Safety Code, relating to hazardous waste.

[Approved by Governor October 12, 1991. Filed with Secretary of State October 14, 1991]

The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares all of the following:

(a) Administrative penalties have been found to be very effective enforcement tools that significantly improve business and industry compliance with laws and regulations.

(b) The Health and Safety Code currently authorizes specified local agencies to enforce hazardous waste laws, but administrative penalty authority is limited to the Department of Toxic Substances Control.

(c) It is believed that local agency administrative penalty authority may significantly improve local agency enforcement efforts and the compliance record of generators, transporters, and facilities subject to this authority.

(d) Hazardous waste law is complex and requires significant training and expertise to understand and interpret. Local agency administrative penalty authority should only be given to, and used by, personnel who have met minimum training requirements.

(e) The Department of Toxic Substances Control should establish, through regulation, minimum requirements for county qualification to participate in the pilot program to be established by this act and provide ongoing coordination and oversight of the delegated programs.

(f) Therefore, it is the intent of the Legislature, in enacting this act, to establish a limited five-year pilot program to assess the effectiveness of local agencies' use of administrative enforcement authority in the hazardous waste enforcement program, to establish the pilot program with enforcement and compliance as the goal

rather than using the program as a primary source of revenue generation, to require the Department of Toxic Substances Control to provide training for, and to conduct oversight of, the participating counties, to limit administrative authority to class II violations (toxi-tickets, field orders, and desk orders), to require an independent assessment of the program, and to require reports to the Governor, the California Environmental Protection Agency, the Legislature, and the Department of Toxic Substances Control, on the effectiveness of the program, with recommendations for further action by the administration and the Legislature.

SEC. 2. Section 25110.2 is added to the Health and Safety Code, to read:

25110.2. "Authorized local health officer" means a local health officer authorized by the department pursuant to Section 25187.7.

SEC. 3. Section 25187 of the Health and Safety Code is amended to read:

25187. (a) Whenever the department or a local health officer authorized pursuant to Section 25187.7 determines that any person has violated, is in violation of, or threatens, as defined in subdivision (e) of Section 13304 of the Water Code to violate, this chapter, Chapter 6.8 (commencing with Section 25300), or Article 3 (commencing with Section 25810) of Chapter 7.6, of this division, or any permit, rule, regulation, standard, or requirement issued or adopted pursuant to this chapter, Chapter 6.8 (commencing with Section 25300), or Article 3 (commencing with Section 25810) of Chapter 7.6, of this division, or the department or an authorized local health officer determines that there is or has been a release, as defined in Chapter 6.8 (commencing with Section 25300), of hazardous waste or constituents into the environment from a hazardous waste facility, the department or authorized local health officer may issue an order specifying a schedule for compliance or correction and imposing an administrative penalty for any violation of this chapter or any permit, rule, regulation, standard, or requirement issued or adopted pursuant to this chapter.

(1) An order issued pursuant to this section shall include a requirement that the person take corrective action with respect to hazardous waste, including the cleanup of the hazardous waste, abatement of the effects thereof, and any other necessary remedial action. An order issued pursuant to this section which requires corrective action at a hazardous waste facility shall require that corrective action be taken beyond the facility boundary, where necessary to protect human health or the environment. The order shall incorporate as a condition of the order any applicable waste discharge requirements issued by the State Water Resources Control Board or a California regional water quality control board, and shall be consistent with all applicable water quality control plans adopted pursuant to Section 13170 of the Water Code and Article 3 (commencing with Section 13240) of Chapter 4 of Division 7 of the Water Code and state policies for water quality control adopted

pursuant to Article 3 (commencing with Section 13140) of Chapter 3 of Division 7 of the Water Code existing at the time of the issuance of the order, to the extent that the department or authorized local health officer determines that those plans and policies are not less stringent than this chapter and regulations adopted pursuant to this chapter. The department or authorized local health officer may also include any more stringent requirement which the department or authorized local health officer determines is necessary or appropriate to protect water quality. Persons who are subject to an order pursuant to this section include present and prior owners, lessees, or operators of the property where the hazardous waste is located, present or past generators, storers, treaters, transporters, disposers, and handlers of hazardous waste, and persons who arrange, or have arranged, by contract or other agreement, to store, treat, transport, dispose of, or otherwise handle hazardous waste.

(2) In an order proposing a penalty pursuant to this section, the department shall take into consideration the nature, circumstances, extent, and gravity of the violation, the violator's past and present efforts to prevent, abate, or clean up conditions posing a threat to the public health or safety or the environment, the violator's ability to pay the proposed penalty, and the prophylactic effect that imposition of the proposed penalty will have on both the violator and on the regulated community as a whole.

(b) For purposes of subdivision (a), "hazardous waste facility" includes the entire site that is under the control of an owner or operator engaged in the management of hazardous waste.

(c) Any order issued pursuant to subdivision (a) shall be served by personal service or certified mail and shall inform the person so served of the right to a hearing.

(d) Any person served with an order pursuant to subdivision (c) who has been unable to resolve any violation or deficiency on an informal basis with the department or authorized local health officer may, within 15 days after service of the order, request a hearing by filing with the department or authorized local health officer a notice of defense. The notice shall be filed with the office that issued the order. A notice of defense shall be deemed filed within the 15-day period provided by this subdivision if it is postmarked within that 15-day period. If no notice of defense is filed within the time limits provided by this subdivision, the order shall become final.

(e) Except as provided in subdivision (f), any hearing requested under subdivision (d) shall be conducted within 90 days after receipt of the notice of defense by an administrative law judge of the Office of Administrative Hearings of the Department of General Services in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the department shall have all the authority granted to an agency by those provisions.

(f) Any provision of an order issued under subdivision (a), except the imposition of an administrative penalty, shall take effect upon

issuance by the department if the department finds that the violation or violations of law associated with that provision may pose an imminent and substantial endangerment to the public health or safety or the environment, and a request for a hearing shall not stay the effect of that provision of the order pending a decision by the department under subdivision (e). However, in the event that the department determines that any or all provisions of the order are so related that the public health or safety or the environment can be protected only by immediate compliance with the order as a whole, then the order as a whole, except the imposition of an administrative penalty, shall take effect upon issuance by the department. A request for a hearing shall not stay the effect of the order as a whole pending a decision by the hearing officer under subdivision (e). Any order issued after a hearing requested under subdivision (d) shall take effect upon issuance by the department.

(g) A decision issued pursuant to this section may be reviewed by the court pursuant to Section 11523 of the Government Code. In all proceedings pursuant to this subdivision, the court shall uphold the decision of the department if the decision is based upon substantial evidence in the whole record. The filing of a petition for writ of mandate shall not stay any corrective action required pursuant to this chapter or the accrual of any penalties assessed pursuant to this chapter. This subdivision does not prohibit the court from granting any appropriate relief within its jurisdiction.

(h) Except as otherwise provided in subdivisions (i) and (j), all administrative penalties collected under this section shall be placed in a separate subaccount in the Hazardous Waste Control Account and shall be available for expenditure by the department only upon appropriation by the Legislature.

(i) Fifty percent of the penalties collected from actions brought by local health officers pursuant to this section shall be paid to the city or county whose local health officer imposed the penalty and shall be deposited into a special account which may be expended to fund the activities of the local health officer in enforcing this chapter pursuant to Section 25180, after the director determines that the local agency enforcement of this section is fair and reasonable.

(j) Fifty percent of the penalties collected from actions brought by local health officers pursuant to this section shall be paid to the department and deposited in the Hazardous Waste Control Account for expenditure by the department, upon appropriation by the Legislature, in connection with activities of local health officers.

SEC. 4. Section 25187 of the Health and Safety Code is amended to read:

25187. (a) Whenever the department or a local health officer authorized pursuant to Section 25187.7 determines that any person has violated, is in violation of, or threatens, as defined in subdivision (e) of Section 13304 of the Water Code to violate, this chapter, Chapter 6.8 (commencing with Section 25300), or Article 3 (commencing with Section 25810) of Chapter 7.6, of this division, or

any permit, rule, regulation, standard, or requirement issued or adopted pursuant to this chapter, Chapter 6.8 (commencing with Section 25300), or Article 3 (commencing with Section 25810) of Chapter 7.6, of this division, or the department or an authorized local health officer determines that there is or has been a release, as defined in Chapter 6.8 (commencing with Section 25300), of hazardous waste or constituents into the environment from a hazardous waste facility, the department or authorized local health officer may issue an order specifying a schedule for compliance or correction and imposing an administrative penalty for any violation of this chapter or any permit, rule, regulation, standard, or requirement issued or adopted pursuant to this chapter.

(1) An order issued pursuant to this section shall include a requirement that the person take corrective action with respect to hazardous waste, including the cleanup of the hazardous waste, abatement of the effects thereof, and any other necessary remedial action. An order issued pursuant to this section which requires corrective action at a hazardous waste facility shall require that corrective action be taken beyond the facility boundary, where necessary to protect human health or the environment. The order shall incorporate as a condition of the order any applicable waste discharge requirements issued by the State Water Resources Control Board or a California regional water quality control board, and shall be consistent with all applicable water quality control plans adopted pursuant to Section 13170 of the Water Code and Article 3 (commencing with Section 13240) of Chapter 4 of Division 7 of the Water Code and state policies for water quality control adopted pursuant to Article 3 (commencing with Section 13140) of Chapter 3 of Division 7 of the Water Code existing at the time of the issuance of the order, to the extent that the department or authorized local health officer determines that those plans and policies are not less stringent than this chapter and regulations adopted pursuant to this chapter. The department or authorized local health officer may also include any more stringent requirement which the department or authorized local health officer determines is necessary or appropriate to protect water quality. Persons who are subject to an order pursuant to this section include present and prior owners, lessees, or operators of the property where the hazardous waste is located, present or past generators, storers, treaters, transporters, disposers, and handlers of hazardous waste, and persons who arrange, or have arranged, by contract or other agreement, to store, treat, transport, dispose of, or otherwise handle hazardous waste.

(2) In an order proposing a penalty pursuant to this section the department shall take into consideration the nature, circumstances, extent, and gravity of the violation, the violator's past and present efforts to prevent, abate, or clean up conditions posing a threat to the public health or safety or the environment, the violator's ability to pay the proposed civil penalty, and the prophylactic effect that imposition of the proposed penalty will have on both the violator and

on the regulated community as a whole.

(b) For purposes of subdivision (a), "hazardous waste facility" includes the entire site that is under the control of an owner or operator engaged in the management of hazardous waste.

(c) Any order issued pursuant to subdivision (a) shall be served by personal service or certified mail and shall inform the person so served of the right to a hearing.

(d) (1) Any person served with an order pursuant to subdivision (c) who has been unable to resolve any violation or deficiency on an informal basis with the department or authorized local health officer may, within 15 days after service of the order, request a hearing by filing with the department or authorized local health officer a notice of defense. The notice shall be filed with the office that issued the order. A notice of defense shall be deemed filed within the 15-day period provided by this subdivision if it is postmarked within that 15-day period. If no notice of defense is filed within the time limits provided by this subdivision, the order shall become final.

(2) If a person served with an order pursuant to subdivision (c) chooses to resolve the content, terms or conditions of the order directly with the department or authorized local health officer and does not file an administrative or judicial appeal, the person may request, and the department or authorized local health officer shall prepare, a written statement, which the department or authorized local health officer shall amend into the order, which explains the violation and the penalties applied, including the nature, extent, and gravity of the violations and a brief description of any mitigating circumstances and any explanations by the respondent. Any amendment to include the written statement prepared pursuant to this subdivision does not constitute a new order and does not create new appeal rights.

(e) Except as provided in subdivision (f), any hearing requested under subdivision (d) shall be conducted within 90 days after receipt of the notice of defense by an administrative law judge of the Office of Administrative Hearings of the Department of General Services in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the department shall have all the authority granted to an agency by those provisions.

(f) Any provision of an order issued under subdivision (a), except the imposition of an administrative penalty, shall take effect upon issuance by the department if the department finds that the violation or violations of law associated with that provision may pose an imminent and substantial endangerment to the public health or safety or the environment, and a request for a hearing shall not stay the effect of that provision of the order pending a decision by the department under subdivision (e). However, in the event that the department determines that any or all provisions of the order are so related that the public health or safety or the environment can be protected only by immediate compliance with the order as a whole,

then the order as a whole, except the imposition of an administrative penalty, shall take effect upon issuance by the department. A request for a hearing shall not stay the effect of the order as a whole pending a decision by the hearing officer under subdivision (e). Any order issued after a hearing requested under subdivision (d) shall take effect upon issuance by the department.

(g) A decision issued pursuant to this section may be reviewed by the court pursuant to Section 11523 of the Government Code. In all proceedings pursuant to this subdivision, the court shall uphold the decision of the department if the decision is based upon substantial evidence in the whole record. The filing of a petition for writ of mandate shall not stay any corrective action required pursuant to this chapter or the accrual of any penalties assessed pursuant to this chapter. This subdivision does not prohibit the court from granting any appropriate relief within its jurisdiction.

(h) Except as otherwise provided in subdivisions (i) and (j), all administrative penalties collected under this section shall be placed in a separate subaccount in the Hazardous Waste Control Account and shall be available for expenditure by the department only upon appropriation by the Legislature.

(i) Fifty percent of the penalties collected from actions brought by local health officers pursuant to this section shall be paid to the city or county whose local health officer imposed the penalty and shall be deposited into a special account which may be expended to fund the activities of the local health officer in enforcing this chapter pursuant to Section 25180, after the director determines that the local agency enforcement of this section is fair and reasonable.

(j) Fifty percent of the penalties collected from actions brought by local health officers pursuant to this section shall be paid to the department and deposited in the Hazardous Waste Control Account for expenditure by the department, upon appropriation by the Legislature, in connection with activities of local health officers.

SEC. 5. Section 25187.7 is added to the Health and Safety Code, to read:

25187.7. (a) The department may delegate some of the authority granted to the department in Sections 25187 and 25189.2 to a local health officer, but shall not delegate the authority specified in subdivision (f) of Section 25187, through a delegation agreement negotiated between the department and the governing body of the local health agency of the local health officer. The department may delegate authority to issue administrative orders for only the following:

(1) Orders for enforcement actions against class II violations, as defined in the regulations adopted by the department pursuant to this section, committed by hazardous waste generators, hazardous waste transporters, and facilities deemed to hold a permit-by-regulation pursuant to the regulations adopted by the department.

(2) Orders for violations of this chapter or the regulations adopted

to implement this chapter.

(b) The department shall provide ongoing coordination and regular evaluation of each participating local agency. Each local health officer operating under such a delegation agreement shall annually submit a report to the department on the status of orders issued under the authority of that delegation agreement. The report prepared by the local health officer shall contain, at least, the data necessary for the task force to prepare the reports required in subdivision (e). The department shall adopt regulations defining the criteria for eligibility for a local health officer to receive a delegation of authority pursuant to this section and other procedures necessary to implement this section. The department may rescind the delegation of authority if the local health officer does not maintain eligibility for authorization under these regulations. The regulations shall include, but are not limited to, a requirement that the local health officer consult with the district attorney for the county on the development of policies to be followed by the local health officer in exercising the authority delegated pursuant to this section and the minimum training required for the staff of local health officers participating in the pilot program established pursuant to this section. The regulations shall also include provisions to ensure that a person shall not be subject to an order issued by the department and by an authorized local health officer for the same act, violation, or failure to act. The regulations shall also include a requirement that the local agency have the ability to represent itself in administrative appeal hearings.

(c) The department may delegate authority pursuant to subdivision (a) to local health officers in not more than eight counties, as part of a five-year pilot program.

(d) (1) On or before January 1, 1995, the department shall establish a task force consisting of two representatives from each of the following groups:

(A) The regulated community affected by the delegation of authority made pursuant to this section.

(B) The department.

(C) Environmental organizations.

(D) Local jurisdictions.

(2) The task force shall evaluate the pilot program delegating authority to local health officers pursuant to this section and shall prepare an initial report on or before July 1, 1995, that contains recommendations to the department and the Legislature regarding extending and expanding the pilot program established by this section. The task force shall also prepare a final report on the pilot program on or before September 1, 1996. At a minimum, the report shall consider any changes in the amount of time necessary to bring violators into compliance with this chapter, in the percent of identified violations addressed through formal enforcement actions, and in the total penalties assessed. The task force shall consider the pilot program to have met its objectives if there is a 10-percent

reduction in the amount of time necessary to bring a violator into compliance with this chapter, and a 10-percent reduction in the number of repeat violations, as measured after the term of the pilot program.

(e) This section shall remain in effect only until January 1, 1997, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1997, deletes or extends that date.

SEC. 6. Section 25189.2 of the Health and Safety Code is amended to read:

25189.2. (a) Any person who makes any false statement or representation in any application, label, manifest, record, report, permit, or other document, filed, maintained, or used for purposes of compliance with this chapter, is liable for a civil penalty not to exceed twenty-five thousand dollars ($25,000) for each separate violation or, for continuing violations, for each day that the violation continues.

(b) Except as provided in subdivision (c), any person who violates any provision of this chapter or any permit, rule, regulation, standard, or requirement issued or adopted pursuant to this chapter, is liable for a civil penalty not to exceed twenty-five thousand dollars ($25,000) for each violation of a separate provision or, for continuing violations, for each day that the violation continues.

(c) Any person who disposes, or causes the disposal of, any hazardous or extremely hazardous waste at a point which is not authorized according to the provisions of this chapter is liable for a civil penalty of not more than twenty-five thousand dollars ($25,000) for each violation and may be ordered to disclose the fact of this violation or these violations to those persons as the court or, in the case of an administrative action, a hearing officer, may direct. Each day on which the deposit remains is a separate additional violation, unless the person immediately files a report of the deposit with the department and is complying with any order concerning the deposit issued by the department, a hearing officer, or a court of competent jurisdiction for the cleanup.

(d) No person may be liable for a civil penalty imposed under this section and for a civil penalty imposed under Section 25189 for the same act or failure to act.

(e) Liability under this section may be imposed in a civil action or liability may be imposed administratively pursuant to Section 25187.

SEC. 7. Section 25189.3 of the Health and Safety Code is repealed.

SEC. 8. Section 25189.5 of the Health and Safety Code is amended to read:

25189.5. (a) The disposal of any hazardous waste, or the causing thereof, is prohibited when the disposal is at a facility which does not have a permit from the department issued pursuant to this chapter, or at any point which is not authorized according to this chapter.

(b) Any person who is convicted of knowingly disposing or causing the disposal of any hazardous waste, or who reasonably

should have known that he or she was disposing or causing the disposal of any hazardous waste, at a facility which does not have a permit from the department issued pursuant to this chapter, or at any point which is not authorized according to this chapter shall, upon conviction, be punished by imprisonment in the county jail for not more than one year or by imprisonment in the state prison for 16, 24, or 36 months.

(c) Any person who knowingly transports or causes the transportation of hazardous waste, or who reasonably should have known that he or she was causing the transportation of any hazardous waste, to a facility which does not have a permit from the department issued pursuant to this chapter, or at any point which is not authorized according to this chapter, shall, upon conviction, be punished by imprisonment in the county jail for not more than one year or by imprisonment in the state prison for 16, 24, or 36 months.

(d) Any person who knowingly treats or stores any hazardous waste at a facility which does not have a permit from the department issued pursuant to this chapter, or at any point which is not authorized according to this chapter, shall, upon conviction, be punished by imprisonment in the county jail for not more than one year or by imprisonment in the state prison for 16, 24, or 36 months.

(e) The court shall also impose upon a person convicted of violating subdivision (b), (c), or (d) a fine of not less than five thousand dollars ($5,000) or more than one hundred thousand dollars ($100,000) for each day of violation except as further provided in this subdivision. If the act which violated subdivision (b), (c), or (d) caused great bodily injury or caused a substantial probability that death could result, the person convicted of violating subdivision (b), (c), or (d) may be punished by imprisonment in the state prison for up to 36 months, in addition to the term specified in subdivision (b), (c), or (d), and may be fined up to two hundred fifty thousand dollars ($250,000) for each day of violation.

(f) For purposes of this section, except as otherwise provided in this subdivision, "each day of violation" means each day on which a violation continues. In any case where a person has disposed or caused the disposal of any hazardous waste in violation of this section, each day that the waste remains disposed of in violation of this section and the person has knowledge thereof is a separate additional violation, unless the person has filed a report of the disposal with the department and is complying with any order concerning the disposal issued by the department, a hearing officer, or court of competent jurisdiction.

SEC. 9. The Legislature finds and declares that this act furthers the purposes of the Safe Drinking Water and Toxic Enforcement Act of 1986.

SEC. 10. Section 4 of this bill incorporates amendments to Section 25187 of the Health and Safety Code proposed by both this bill and SB 669. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1992, (2) each bill amends

Section 25187 of the Health and Safety Code, and (3) this bill is enacted after SB 669, in which case Section 3 of this bill shall not become operative.

SEC. 11. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 887

An act to add Sections 87100.1 and 87103.6 to the Government Code, relating to the Political Reform Act of 1974, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 12, 1991 Filed with Secretary of State October 14, 1991.]

The people of the State of California do enact as follows:

SECTION 1. Section 87100.1 is added to the Government Code, to read:

87100.1. (a) A registered professional engineer or licensed land surveyor who renders professional services as a consultant to a state or local government, either directly or through a firm in which he or she is employed or is a principal, does not have a financial interest in a governmental decision pursuant to Section 87100 where the consultant renders professional engineering or land surveying services independently of the control and direction of the public agency and does not exercise public agency decisionmaking authority as a contract city or county engineer or surveyor.

(b) For purposes of this section, the consultant renders professional engineering or land surveying services independently of the control and direction of the public agency when the consultant is in responsible charge of the work pursuant to Section 6703 or 8703 of the Business and Professions Code.

(c) Subdivision (a) does not apply to that portion of the work that constitutes the recommendation of the actual formula to spread the costs of an assessment district's improvements if both of the following apply:

(1) The engineer has received income of two hundred fifty dollars ($250) or more for professional services in connection with any parcel included in the benefit assessment district within 12 months

prior to the creation of the district.

(2) The district includes other parcels in addition to those parcels for which the engineer received the income.

The recommendation of the actual formula does not include preliminary site studies, preliminary engineering, plans, specifications, estimates, compliance with environmental laws and regulations, or the collection of data and information, utilized in applying the formula.

SEC. 2. Section 87103.6 is added to the Government Code to read:

87103.6. Notwithstanding subdivision (c) of Section 87103, any person who makes a payment to a state agency or local government agency to defray the estimated reasonable costs to process any application, approval, or any other action, including but not limited to, holding public hearings and evaluating or preparing any report or document, shall not by reason of the payments be a source of income to a person who is retained or employed by the agency.

SEC. 3. The Legislature finds and declares that the provisions of this act further the purposes of the Political Reform Act of 1974 within the meaning of subdivision (a) of Section 81012 of the Government Code.

SEC. 4. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

Public agencies are being forced to delay action or impose moratoria on requests for certain types of discretionary approvals because they have insufficient staff to evaluate such requests. This is having an adverse effect on the ability to provide adequate public services and housing for the citizens of this state. In order to enable state and local agencies to recover fees from project applicants for services necessary to process applications, approvals, or actions by the agencies and expend those fees for those services it is necessary for this act to take effect immediately.

CHAPTER 888

An act to amend Sections 1522, 1540.2, 1568.09, 1569.145, 1569.17, 1569.314, 1569.406, 1569.47, and 1596.8915 of, and to add Sections 1568.0823, 1568.092, 1569.70, and 1596.8715 to, the Health and Safety Code, relating to care facilities.

[Approved by Governor October 12, 1991 Filed with Secretary of State October 14, 1991]

The people of the State of California do enact as follows:

SECTION 1. Section 1522 of the Health and Safety Code is amended to read:

1522. It is the intent of the Legislature in enacting this section to require the fingerprints of those individuals whose contact with community care clients may pose a risk to the clients' health and safety.

(a) Before issuing a license or special permit to any person or persons to operate or manage a community care facility, the state department shall secure from an appropriate law enforcement agency a criminal record to determine whether the applicant or any other person specified in subdivision (b) has ever been convicted of, or, after having been arrested and released on bail or on his or her own recognizance, is currently awaiting trial for, a crime other than a minor traffic violation. No fee shall be charged by the Department of Justice or the state department for the fingerprinting of an applicant for a license or special permit to operate a facility providing nonmedical board, room, and care for six or fewer children or for obtaining a criminal record of the applicant pursuant to this section. If it is found that the applicant, or any other person specified in subdivision (b), has been convicted of, or is awaiting trial for, a crime other than a minor traffic violation, the application shall be denied, unless the director grants an exemption pursuant to subdivision (f).

(b) In addition to the applicant, this section shall be applicable to criminal convictions of the following persons:

(1) Adults responsible for administration or direct supervision of staff.

(2) Any person, other than a client, residing in the facility.

(3) Any person who provides client assistance in dressing, grooming, bathing, or personal hygiene.

(4) Any staff person or employee who has frequent and routine contact with the clients. In determining who has frequent contact, any volunteer who is in the facility shall be exempt unless the volunteer is used to replace or supplement staff in providing direct care and supervision of clients. In determining who has routine contact, staff and employees under direct onsite supervision and who are not providing direct care and supervision or who have only occasional or intermittent contact with clients shall be exempt.

(5) Except for staff members of social rehabilitation facilities serving minors with alcohol or drug abuse problems, staff members of social rehabilitation facilities, other than those specified in paragraphs (1) and (2), are exempt from fingerprinting requirements.

(6) If the applicant is a firm, partnership, association, or corporation, the chief executive officer or other person serving in like capacity.

(7) Additional officers of the governing body of the applicant, or other persons with a financial interest in the applicant, as determined necessary by the department by regulation. The criteria used in the development of these regulations shall be based on the person's capability to exercise substantial influence over the

operation of the facility.

(c) Subsequent to initial licensure, any person specified in subdivision (b) and not exempted from fingerprinting shall, as a condition to employment, residence, or presence in a community care facility, be fingerprinted and sign a declaration under penalty of perjury regarding any prior criminal convictions. The licensee shall submit these fingerprints to the licensing agency not later than four calendar days following employment, residence, or initial presence in the community care facility. These fingerprints may be on a card provided by the State Department of Social Services or by a local law enforcement office for the purpose of obtaining a permanent set of fingerprints. Upon request of the licensee, who shall enclose a self-addressed stamped postcard for this purpose, the department shall verify receipt of the fingerprints.

Within 10 working days of the receipt of these fingerprints, the State Department of Social Services shall submit them to the Department of Justice. If new fingerprints are required for processing, the department shall notify the licensee within five working days of receipt of the fingerprints. If the department has not received the information required by this section within 45 calendar days, it shall request a status report on the fingerprint clearance from the Department of Justice.

Within five working days of the receipt of the criminal record or information regarding criminal convictions from the Department of Justice, the department shall notify the licensee of the criminal convictions, as provided in this subdivision. If no convictions are recorded, the department shall provide the licensee with a statement of the fact that there are no convictions within 10 working days of receipt of this information from the Department of Justice. If new fingerprints are required for processing, the State Department of Social Services shall notify the licensee within five working days from the date of notification by the Department of Justice that the fingerprints were illegible.

Except for persons specified in paragraph (2) of subdivision (b), the licensee shall endeavor to ascertain the previous employment history of persons required to be fingerprinted under this subdivision. If it is determined by the State Department of Social Services, on the basis of the fingerprints submitted to the Department of Justice, that the person has been convicted of, or is awaiting trial for, a sex offense against a minor, or has been convicted for an offense specified in Section 243.4, 273a, 273d, or subdivision (a) or (b) of Section 368 of the Penal Code, or has been convicted of a felony, the State Department of Social Services shall notify the licensee to act immediately to terminate the person's employment, remove the person from the community care facility, or bar the person from entering the community care facility. The State Department of Social Services may subsequently grant an exemption pursuant to subdivision (f). If the conviction or arrest was for another crime, except a minor traffic violation, the licensee shall, upon

notification by the State Department of Social Services, act immediately to either (1) terminate the person's employment, remove the person from the community care facility, or bar the person from entering the community care facility; or (2) seek an exemption pursuant to subdivision (f). The State Department of Social Services shall determine if the person shall be allowed to remain in the facility until a decision on the exemption is rendered.

(d) Before issuing a license, special permit, or certificate of approval to any person or persons to operate or manage a foster family home or certified family home as described in Section 1506, the state department or other approving authority shall secure from an appropriate law enforcement agency a criminal record to determine whether the applicant or any other adult person residing in the home has ever been convicted of, or arrested for, a crime other than a minor traffic violation. That criminal history information shall include the full criminal record, if any, of those persons. No fee shall be charged by the Department of Justice or the state department for the fingerprinting of an applicant for a license, special permit, or certificate of approval described in this subdivision. The record, if any, shall be taken into consideration when evaluating a prospective applicant. If the applicant or other persons specified in this subdivision have convictions that would make the applicant's home unfit as a foster family home or a certified family home, the license, special permit, or certificate of approval shall be denied.

Any person specified in this subdivision shall, as a part of the application, be fingerprinted and sign a declaration under penalty of perjury regarding any prior criminal arrests or convictions. The applicant shall submit these fingerprints to the licensing agency or other approving authority. Within five working days of the receipt of the criminal record or information regarding criminal convictions from the Department of Justice, the department shall notify the applicant of any criminal arrests or convictions. If any arrests or convictions are recorded, the department shall provide the licensee with a statement of that fact. The application shall be denied if it is determined by the approving authority, on the basis of the fingerprints submitted to the Department of Justice, that the person has been convicted of a sex offense against a minor, or has been convicted of an offense specified in Section 220, 243.4, 264.1, paragraph (1) of Section 273a, Section 273d, 288, 289, or subdivision (a) or (b) of Section 368 of the Penal Code, or was convicted of another crime against an individual specified in subdivision (c) of Section 667.5 of the Penal Code.

(e) For purposes of this section or any other provision of this chapter, a conviction means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action which the state department is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of

sentence, notwithstanding a subsequent order pursuant to Sections 1203.4 and 1203.4a of the Penal Code permitting the person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or indictment. For purposes of this section or any other provision of this chapter, the record of a conviction, or a copy thereof certified by the clerk of the court or by a judge of the court in which the conviction occurred, shall be conclusive evidence of the conviction.

(f) After review of the record, the director may grant an exemption from disqualification for a license or special permit pursuant to subdivision (a), or for employment, residence, or presence in a community care facility as specified in subdivision (c), if the director has substantial and convincing evidence to support a reasonable belief that the applicant and the person convicted of the crime, if other than the applicant, are of such good character as to justify issuance of the license or special permit or granting an exemption for purposes of subdivision (c). Except as otherwise provided in this subdivision, no exemption shall be granted pursuant to this subdivision if the conviction was for an offense specified in Section 220, 243.4, 264.1, paragraph (1) of Section 273a, Sections 273d, 288, 289, or subdivision (a) or (b) of Section 368 of the Penal Code, or was a conviction of another crime against an individual specified in subdivision (c) of Section 667.5 of the Penal Code. The director may grant an exemption if the employee or prospective employee, who was convicted of a crime against an individual in paragraph (1), (2), (7), or (8) of subdivision (c) of Section 667.5 of the Penal Code, has been rehabilitated as provided in Section 4852.03 of the Penal Code and has maintained the conduct required in Section 4852.05 of the Penal Code for at least 10 years and has the recommendation of the district attorney representing the employee's county of residence, or if the employee or prospective employee has received a certificate of rehabilitation pursuant to Chapter 3.5 (commencing with Section 4852.01) of Title 6 of Part 3 of the Penal Code.

(g) For purposes of compliance with this section, the department may permit an individual to transfer a current criminal records clearance, as defined in subdivision (a), from one facility to another, as long as the criminal record clearance has been processed through a state licensing district office, and is being transferred to another state licensing district office.

(h) The full criminal record obtained for purposes of this section may be used by the department or by a licensed adoption agency as a clearance required for adoption purposes.

(i) If a licensee or facility is required by law to deny employment or to terminate employment of any employee based on written notification from the state department that the employee has a prior criminal conviction or is determined unsuitable for employment under Section 1558, the licensee or facility shall not incur civil liability or unemployment insurance liability as a result of that denial

or termination.

SEC. 1.5. Section 1522 of the Health and Safety Code is amended to read:

1522. It is the intent of the Legislature in enacting this section to require the fingerprints of those individuals whose contact with community care clients may pose a risk to the clients' health and safety.

(a) Before issuing a license or special permit to any person or persons to operate or manage a community care facility, the state department shall secure from an appropriate law enforcement agency a criminal record to determine whether the applicant or any other person specified in subdivision (b) has ever been convicted of, or, after having been arrested and released on bail or on his or her own recognizance, is currently awaiting trial for, a crime other than a minor traffic violation. No fee shall be charged by the Department of Justice or the state department for the fingerprinting of an applicant for a license or special permit to operate a facility providing nonmedical board, room, and care for six or less children or for obtaining a criminal record of the applicant pursuant to this section. If it is found that the applicant, or any other person specified in subdivision (b), has been convicted of, or is awaiting trial for, a crime other than a minor traffic violation, the Department of Justice shall notify the State Department of Social Services of the fact and the application shall be denied, unless the director grants an exemption pursuant to subdivision (f). If no criminal record information has been recorded, the Department of Justice shall provide the applicant and the State Department of Social Services with a statement of that fact.

(b) In addition to the applicant, this section shall be applicable to criminal convictions of the following persons:

(1) Adults responsible for administration or direct supervision of staff.

(2) Any person, other than a client, residing in the facility.

(3) Any person who provides client assistance in dressing, grooming, bathing, or personal hygiene.

(4) Any staff person or employee who has frequent and routine contact with the clients. In determining who has frequent contact, any volunteer who is in the facility shall be exempt unless the volunteer is used to replace or supplement staff in providing direct care and supervision of clients. In determining who has routine contact, staff and employees under direct onsite supervision and who are not providing direct care and supervision or who have only occasional or intermittent contact with clients shall be exempt.

(5) Except for staff members of social rehabilitation facilities serving minors with alcohol or drug abuse problems, staff members of social rehabilitation facilities, other than those specified in paragraphs (1) and (2), are exempt from fingerprinting requirements.

(6) If the applicant is a firm, partnership, association, or

corporation, the chief executive officer or other person serving in like capacity.

(7) Additional officers of the governing body of the applicant, or other persons with a financial interest in the applicant, as determined necessary by the department by regulation. The criteria used in the development of these regulations shall be based on the person's capability to exercise substantial influence over the operation of the facility.

(c) Subsequent to initial licensure, any person specified in subdivision (b) and not exempted from fingerprinting shall, as a condition to employment, residence, or presence in a community care facility, be fingerprinted and sign a declaration under penalty of perjury regarding any prior criminal convictions. The licensee shall submit these fingerprints to the Department of Justice not later than four calendar days following employment, residence, or initial presence in the community care facility. These fingerprints shall be on a card provided by the State Department of Social Services for the purpose of obtaining a permanent set of fingerprints. Fingerprints not submitted to the Department of Justice, as required in this section, shall result in the citation of a deficiency and the fingerprints shall then be submitted to the State Department of Social Services for processing. Upon request of the licensee, who shall enclose a self-addressed stamped postcard for this purpose, the Department of Justice shall verify receipt of the fingerprints.

Within 30 calendar days of the receipt of the fingerprints, the Department of Justice shall notify the State Department of Social Services of the criminal record information, as provided for in subdivision (a). If no criminal record information has been recorded, the Department of Justice shall provide the licensee and the State Department of Social Services with a statement of that fact within 15 calendar days of receipt of the fingerprints. If new fingerprints are required for processing, the Department of Justice shall, within 15 calendar days from the date of receipt of the fingerprints, notify the licensee that the fingerprints were illegible.

Except for persons specified in paragraph (2) of subdivision (b), the licensee shall endeavor to ascertain the previous employment history of persons required to be fingerprinted under this subdivision. If it is determined by the State Department of Social Services, on the basis of the fingerprints submitted to the Department of Justice, that the person has been convicted of, or is awaiting trial for, a sex offense against a minor, or has been convicted for an offense specified in Section 243.4, 273a, 273d, or subdivision (a) or (b) of Section 368 of the Penal Code, or has been convicted of a felony, the State Department of Social Services shall notify the licensee to act immediately to terminate the person's employment, remove the person from the community care facility, or bar the person from entering the community care facility. The State Department of Social Services may subsequently grant an exemption pursuant to subdivision (f). If the conviction or arrest was for another

crime, except a minor traffic violation, the licensee shall, upon notification by the State Department of Social Services, act immediately to either (1) terminate the person's employment, remove the person from the community care facility, or bar the person from entering the community care facility; or (2) seek an exemption pursuant to subdivision (f). The State Department of Social Services shall determine if the person shall be allowed to remain in the facility until a decision on the exemption is rendered.

(d) Before issuing a license, special permit, or certificate of approval to any person or persons to operate or manage a foster family home or certified family home as described in Section 1506, the state department or other approving authority shall secure from an appropriate law enforcement agency a criminal record to determine whether the applicant or any other adult person residing in the home has ever been convicted of, or arrested for, a crime other than a minor traffic violation. That criminal history information shall include the full criminal record, if any, of those persons. No fee shall be charged by the Department of Justice or the state department for the fingerprinting of an applicant for a license, special permit, or certificate of approval described in this subdivision. The record, if any, shall be taken into consideration when evaluating a prospective applicant. If the applicant or other persons specified in this subdivision have convictions that would make the applicant's home unfit as a foster family home or a certified family home, the license, special permit, or certificate of approval shall be denied. For the purposes of this subdivision, a criminal record clearance provided under Section 222.40 of the Civil Code may be used by the department or other approving agency.

Any person specified in this subdivision shall, as a part of the application, be fingerprinted and sign a declaration under penalty of perjury regarding any prior criminal arrests or convictions and shall submit these fingerprints to the licensing agency or other approving authority. The foster family agency shall obtain fingerprints from certified home applicants and from persons specified in subdivision (b) and shall submit them directly to the Department of Justice. Within five working days of the receipt of the criminal record or information regarding criminal convictions from the Department of Justice, the department shall notify the applicant of any criminal arrests or convictions. If no arrests or convictions are recorded, the Department of Justice shall provide the foster family agency with a statement of that fact concurrent with providing the information to the State Department of Social Services. The application shall be denied if it is determined by the approving authority, on the basis of the fingerprints submitted to the Department of Justice, that the person has been convicted of a sex offense against a minor, or has been convicted of an offense specified in Section 220, 243.4, 264.1, paragraph (1) of Section 273a, Section 273d, 288, 289, or subdivision (a) or (b) of Section 368 of the Penal Code, or was convicted of another crime against an individual specified in subdivision (c) of

Section 667.5 of the Penal Code.

(e) For purposes of this section or any other provision of this chapter, a conviction means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action which the state department is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, notwithstanding a subsequent order pursuant to Sections 1203.4 and 1203.4a of the Penal Code permitting the person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or indictment. For purposes of this section or any other provision of this chapter, the record of a conviction, or a copy thereof certified by the clerk of the court or by a judge of the court in which the conviction occurred, shall be conclusive evidence of the conviction.

(f) After review of the record, the director may grant an exemption from disqualification for a license or special permit pursuant to subdivision (a), or for employment, residence, or presence in a community care facility as specified in subdivision (c), if the director has substantial and convincing evidence to support a reasonable belief that the applicant and the person convicted of the crime, if other than the applicant, are of such good character as to justify issuance of the license or special permit or granting an exemption for purposes of subdivision (c). Except as otherwise provided in this subdivision, no exemption shall be granted pursuant to this subdivision if the conviction was for an offense specified in Section 220, 243.4, 264.1, paragraph (1) of Section 273a, Sections 273d, 288, 289, or subdivision (a) or (b) of Section 368 of the Penal Code, or was a conviction of another crime against an individual specified in subdivision (c) of Section 667.5 of the Penal Code. The director may grant an exemption if the employee or prospective employee, who was convicted of a crime against an individual in paragraph (1), (2), (7), or (8) of subdivision (c) of Section 667.5 of the Penal Code, has been rehabilitated as provided in Section 4852.03 of the Penal Code and has maintained the conduct required in Section 4852.05 of the Penal Code for at least 10 years and has the recommendation of the district attorney representing the employee's county of residence, or if the employee or prospective employee has received a certificate of rehabilitation pursuant to Chapter 3.5 (commencing with Section 4852.01) of Title 6 of Part 3 of the Penal Code.

(g) For purposes of compliance with this section, the department may permit an individual to transfer a current criminal records clearance, as defined in subdivision (a), from one facility to another, as long as the criminal record clearance has been processed through a state licensing district office, and is being transferred to another state licensing district office.

(h) The full criminal record obtained for purposes of this section

may be used by the department or by a licensed adoption agency as a clearance required for adoption purposes.

(i) If a licensee or facility is required by law to deny employment or to terminate employment of any employee based on written notification from the state department that the employee has a prior criminal conviction or is determined unsuitable for employment under Section 1558, the licensee or facility shall not incur civil liability or unemployment insurance liability as a result of that denial or termination.

SEC. 2. Section 1540.2 of the Health and Safety Code is amended to read:

1540.2. Any person who, without lawful authorization from a duly authorized officer, employee, or agent of the department, informs an owner, operator, employee, agent, or resident of a community care facility, of an impending and unannounced site visit to that facility by personnel of the department is guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not to exceed one thousand dollars ($1,000), by imprisonment in the county jail for a period not to exceed 180 days, or by both a fine and imprisonment.

SEC. 3. Section 1568.0823 is added to the Health and Safety Code, to read:

1568.0823. Any person who, without lawful authorization from a duly authorized officer, employee, or agent of the department, informs an owner, operator, employee, agent, or resident of a residential care facility for persons with a chronic, life-threatening illness of an impending and unannounced site visit to that facility by personnel of the department, is guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not to exceed one thousand dollars ($1,000), by imprisonment in the county jail for a period not to exceed 180 days, or by both a fine and imprisonment.

SEC. 4. Section 1568.09 of the Health and Safety Code is amended to read:

1568.09. It is the intent of the Legislature in enacting this section to require the fingerprints of those individuals whose contact with residents of residential care facilities for persons with a chronic, life-threatening illness may pose a risk to the residents' health and safety.

(a) Before issuing a license to any person or persons to operate or manage a residential care facility, the department shall secure from an appropriate law enforcement agency a criminal record to determine whether the applicant or any other person specified in subdivision (b) has ever been convicted of a crime other than a minor traffic violation. If it is found that the applicant or any other person specified in subdivision (b) has been convicted of a crime, other than a minor traffic violation, the application shall be denied, unless the director grants an exemption pursuant to subdivision (e).

(b) In addition to the applicant, the provisions of this section shall be applicable to criminal convictions of the following persons:

(1) Adults responsible for administration or direct supervision of

staff of the facility.

(2) Any person, other than a resident, residing in the facility.

(3) Any person who provides resident assistance in dressing, grooming, bathing, or personal hygiene.

(4) Any staff person or employee who has frequent and routine contact with the residents. In determining who has frequent contact, any volunteer who is in the facility shall be exempt unless the volunteer is used to replace or supplement staff in providing direct care and supervision of residents. A volunteer who provides direct care and supervision shall be exempt if the volunteer is a resident's spouse, significant other, friend or family member and provides direct care and supervision to that resident only at the request of the resident. In determining who has routine contact, staff and employees under direct onsite supervision and who are not providing direct care and supervision or who have only occasional or intermittent contact with residents shall be exempt.

(5) If the applicant is a firm, partnership, association, or corporation, the chief executive officer or other person serving in that capacity.

(6) Additional officers of the governing body of the applicant, or other persons with a financial interest in the applicant, as determined necessary by the department by regulation. The criteria used in the development of these regulations shall be based on the person's capability to exercise substantial influence over the operation of the facility.

(c) Subsequent to initial licensure, any person specified in subdivision (b) and not exempted from fingerprinting shall, as a condition to employment, residence, or presence in a residential care facility, be fingerprinted and sign a declaration under penalty of perjury regarding any prior criminal convictions. The licensee shall submit these fingerprints to the licensing agency not later than 20 days following employment, residence, or initial presence in the residential care facility. Except for persons specified in paragraph (2) of subdivision (b), the licensee shall endeavor to ascertain the previous employment history of persons required to be fingerprinted under this subdivision. If it is determined by the State Department of Social Services, on the basis of the fingerprints submitted to the Department of Justice, that the person has been convicted of a sex offense against a minor, or has been convicted for an offense specified in Section 243.4, 273a, 273d, or subdivision (a) or (b) of Section 368 of the Penal Code, or has been convicted of a felony, the department shall notify the licensee to act immediately to terminate the person's employment, remove the person from the residential care facility, or bar the person from entering the residential care facility. The department may subsequently grant an exemption pursuant to subdivision (e). If the conviction was for another crime, except a minor traffic violation, the licensee shall, upon notification by the department, act immediately to either (1) terminate the persons' employment, remove the person from the

residential care facility, or bar the person from entering the residential care facility; or (2) seek an exemption pursuant to subdivision (e). The department shall determine if the person shall be allowed to remain in the facility until a decision on the exemption is rendered.

(d) For purposes of this section or any other provision of this chapter, a conviction means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action which the department is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of the sentence, notwithstanding a subsequent order pursuant to Sections 1203.4 and 1203.4a of the Penal Code permitting that person to withdraw his or her plea of guilty and to enter a plea of not guilty, setting aside the verdict of guilty, or dismissing the accusation, information, or indictment. For purposes of this chapter, the record of a conviction, or a copy thereof certified by the clerk of the court or by a judge of the court in which the conviction occurred, shall be conclusive evidence of the conviction.

(e) After review of the record, the director may grant an exemption from disqualification for a license pursuant to subdivision (a), or for employment, residence, or presence in a residential care facility as specified in subdivision (c) if the director has substantial and convincing evidence to support a reasonable belief that the applicant and the person convicted of the crime, if other than the applicant, are of such good character as to justify issuance of the license or special permit or granting an exemption for purposes of subdivision (c). However, no exemption shall be granted pursuant to this subdivision if the conviction was for an offense specified in Section 220, 243.4, 264.1, or paragraph (1) of Section 273a or Section 273d, or Section 288 or 289, or subdivision (a) or (b) of Section 368 of the Penal Code, or was a conviction of another crime against an individual specified in subdivision (c) of Section 667.5 of the Penal Code.

(f) For purposes of compliance with this section, the department may permit an individual to transfer a current criminal records clearance, as defined in subdivision (a), from one facility to another, as long as the criminal record clearance has been processed through a state licensing district office, and is being transferred to another state licensing district office.

(g) If a licensee or facility is required by law to deny employment or to terminate employment of any employee based on written notification from the state department that the employee has a prior criminal conviction or is determined unsuitable for employment under Section 1568.092, the licensee or facility shall not incur civil liability or unemployment insurance liability as a result of that denial or termination.

SEC. 4.5. Section 1568.09 of the Health and Safety Code is

amended to read:

1568.09. It is the intent of the Legislature in enacting this section to require the fingerprints of those individuals whose contact with residents of residential care facilities for persons with a chronic, life-threatening illness may pose a risk to the residents' health and safety.

(a) Before issuing a license to any person or persons to operate or manage a residential care facility, the department shall secure from an appropriate law enforcement agency a criminal record to determine whether the applicant or any other person specified in subdivision (b) has ever been convicted of a crime other than a minor traffic violation. If it is found that the applicant or any other person specified in subdivision (b) has been convicted of a crime, other than a minor traffic violation, the Department of Justice shall notify the State Department of Social Services of that fact and the application shall be denied, unless the director grants an exemption pursuant to subdivision (e). If no criminal record information has been recorded, the Department of Justice shall provide the applicant and the State Department of Social Services with a statement of that fact.

(b) In addition to the applicant, the provisions of this section shall be applicable to criminal convictions of the following persons:

(1) Adults responsible for administration or direct supervision of staff of the facility.

(2) Any person, other than a resident, residing in the facility.

(3) Any person who provides resident assistance in dressing, grooming, bathing, or personal hygiene.

(4) Any staff person or employee who has frequent and routine contact with the residents. In determining who has frequent contact, any volunteer who is in the facility shall be exempt unless the volunteer is used to replace or supplement staff in providing direct care and supervision of residents. A volunteer who provides direct care and supervision shall be exempt if the volunteer is a resident's spouse, significant other, friend or family member and provides direct care and supervision to that resident only at the request of the resident. In determining who has routine contact, staff and employees under direct onsite supervision and who are not providing direct care and supervision or who have only occasional or intermittent contact with residents shall be exempt.

(5) If the applicant is a firm, partnership, association, or corporation, the chief executive officer or other person serving in that capacity.

(6) Additional officers of the governing body of the applicant, or other persons with a financial interest in the applicant, as determined necessary by the department by regulation. The criteria used in the development of these regulations shall be based on the person's capability to exercise substantial influence over the operation of the facility.

(c) Subsequent to initial licensure, any person specified in

subdivision (b) and not exempted from fingerprinting shall, as a condition to employment, residence, or presence in a residential care facility, be fingerprinted and sign a declaration under penalty of perjury regarding any prior criminal convictions. The licensee shall submit these fingerprints to the Department of Justice not later than four calendar days following employment, residence, or initial presence in the residential care facility.

These fingerprints shall be on a card provided by the State Department of Social Services for the purpose of obtaining a permanent set of fingerprints. Fingerprints not submitted to the Department of Justice, as required in this section, shall result in the citation of a deficiency and the fingerprints shall then be submitted to the State Department of Social Services for processing.

Within 30 calendar days of the receipt of the fingerprints, the Department of Justice shall notify the State Department of Social Services of the criminal record information, as provided for in this subdivision. If no criminal record information has been recorded, the Department of Justice shall provide the licensee and the State Department of Social Services with a statement of that fact within 15 calendar days of receipt of the fingerprints. If new fingerprints are required for processing, the Department of Justice shall, within 15 calendar days from the date of receipt of the fingerprints, notify the licensee that the fingerprints were illegible.

Except for persons specified in paragraph (2) of subdivision (b), the licensee shall endeavor to ascertain the previous employment history of persons required to be fingerprinted under this subdivision. If it is determined by the State Department of Social Services, on the basis of the fingerprints submitted to the Department of Justice, that the person has been convicted of a sex offense against a minor, or has been convicted for an offense specified in Section 243.4, 273a, 273d, or subdivision (a) or (b) of Section 368 of the Penal Code, or has been convicted of a felony, the department shall notify the licensee to act immediately to terminate the person's employment, remove the person from the residential care facility, or bar the person from entering the residential care facility. The department may subsequently grant an exemption pursuant to subdivision (e). If the conviction was for another crime, except a minor traffic violation, the licensee shall, upon notification by the department, act immediately to either (1) terminate the persons' employment, remove the person from the residential care facility, or bar the person from entering the residential care facility; or (2) seek an exemption pursuant to subdivision (e). The department shall determine if the person shall be allowed to remain in the facility until a decision on the exemption is rendered.

(d) For purposes of this section or any other provision of this chapter, a conviction means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action which the department is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the

judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of the sentence, notwithstanding a subsequent order pursuant to Sections 1203.4 and 1203.4a of the Penal Code permitting that person to withdraw his or her plea of guilty and to enter a plea of not guilty, setting aside the verdict of guilty, or dismissing the accusation, information, or indictment. For purposes of this chapter, the record of a conviction, or a copy thereof certified by the clerk of the court or by a judge of the court in which the conviction occurred, shall be conclusive evidence of the conviction.

(e) After review of the record, the director may grant an exemption from disqualification for a license pursuant to subdivision (a), or for employment, residence, or presence in a residential care facility as specified in subdivision (c) if the director has substantial and convincing evidence to support a reasonable belief that the applicant and the person convicted of the crime, if other than the applicant, are of such good character as to justify issuance of the license or special permit or granting an exemption for purposes of subdivision (c). However, no exemption shall be granted pursuant to this subdivision if the conviction was for an offense specified in Section 220, 243.4, 264.1, or paragraph (1) of Section 273a or Section 273d, or Section 288 or 289, or subdivision (a) or (b) of Section 368 of the Penal Code, or was a conviction of another crime against an individual specified in subdivision (c) of Section 667.5 of the Penal Code.

(f) For purposes of compliance with this section, the department may permit an individual to transfer a current criminal records clearance, as defined in subdivision (a), from one facility to another, as long as the criminal record clearance has been processed through a state licensing district office, and is being transferred to another state licensing district office.

(g) If a licensee or facility is required by law to deny employment or to terminate employment of any employee based on written notification from the state department that the employee has a prior criminal conviction or is determined unsuitable for employment under Section 1568.092, the licensee or facility shall not incur civil liability or unemployment insurance liability as a result of that denial or termination.

SEC. 5. Section 1568.092 is added to the Health and Safety Code, to read:

1568.092. (a) The department may prohibit a licensee from employing, or continuing the employment of, or allowing in a licensed facility, or allowing contact with clients of a licensed facility by, any employee or prospective employee who has:

(1) Violated, or aided or permitted the violation by any other person of, any provisions of this chapter or of any rules or regulations promulgated under this chapter.

(2) Engaged in conduct which is inimical to the health, morals, welfare, or safety of either an individual in or receiving services from

the facility, or the people of the State of California.

(3) Been denied an exemption to work or to be present in a facility, when that person has been convicted of a crime as defined in Section 1568.09.

(4) Engaged in any other conduct which would constitute a basis for disciplining a licensee.

(b) The employee or prospective employee, the facility, and the licensee shall be given written notice of the basis of the department's action and of the employee's or prospective employee's right to a hearing. The notice shall be served either by personal service or by registered mail. Within 15 days after the department serves the notice, the employee or prospective employee may file with the department a written request for a hearing. If the employee or prospective employee fails to file a written request for a hearing within the prescribed time, the department's action shall be final.

(c) The department may require that an employee or prospective employee not work or be present in a facility pending a final decision of the matter, when, in the opinion of the director, the action is necessary to protect residents or clients from physical or mental abuse, abandonment, or any other substantial threat to their health or safety.

(d) Upon receipt by the department of a written request for a hearing, a hearing shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Division 3 of Title 2 of the Government Code. The standard of proof shall be the preponderance of the evidence and the burden of proof shall be on the department.

(e) A licensee's failure to comply with the department's prohibition of employment or presence in the facility shall be grounds for disciplining the licensee pursuant to Section 1568.082.

SEC. 6. Section 1569.145 of the Health and Safety Code is amended to read:

1569.145. This chapter does not apply to any of the following:

(a) Any health facility, as defined by Section 1250.

(b) Any clinic, as defined by Section 1202.

(c) Any facility conducted by and for the adherents of any well-recognized church or religious denomination for the purpose of providing facilities for the care or treatment of the sick who depend upon prayer or spiritual means for healing in the practice of the religion of such church or denomination.

(d) Any house, institution, hotel, congregate housing project for the elderly, or other similar place that is limited to providing one or more of the following: housing, meals, transportation, housekeeping, or recreational and social activities; or that have residents independently accessing supportive services; provided, however, that no resident thereof requires any element of care and supervision or protective supervision as determined by the director. This subdivision shall not include a home or residence that is described in subdivision (f).

(e) Recovery houses or other similar facilities providing group living arrangements for persons recovering from alcoholism or drug addiction where the facility provides no care or supervision.

(f) (1) Any arrangement for the care and supervision of a person or persons by a family member.

(2) Any arrangement for the care and supervision of a person or persons from only one family by a close friend, whose friendship preexisted the contact between the provider and the recipient, and both of the following are met:

(A) The care and supervision is provided in a home or residence chosen by the recipient.

(B) The arrangement is not of a business nature and occurs only as long as the needs of the recipient for care and supervision are adequately met.

(g) Any similar facility determined by the director.

(h) For purposes of this section, "family member" means any spouse, by marriage or otherwise, child or stepchild, by natural birth or by adoption, parent, brother, sister, half-brother, half-sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, first cousin, or any person denoted by the prefix "grand" or "great," or the spouse of any of these persons.

(i) A person shall not be exempted from this chapter's licensure requirements if he or she has been appointed as conservator of the person, estate of the person, or both, if the person is receiving care and supervision from the conservator as regulated by this chapter, unless the conservator is otherwise exempted under other provisions of this section.

SEC. 7. Section 1569.17 of the Health and Safety Code is amended to read:

1569.17. It is the intent of the Legislature in enacting this section to require the fingerprints of those individuals whose contact with clients of residential care facilities for the elderly may pose a risk to the clients' health and safety.

(a) Before issuing a license to any person or persons to operate or manage a residential care facility for the elderly, the department shall secure from an appropriate law enforcement agency a criminal record to determine whether the applicant or any other person specified in subdivision (b) has ever been convicted of a crime other than a minor traffic violation. If it is found that the applicant or any other person specified in subdivision (b) has been convicted of a crime, other than a minor traffic violation, the application shall be denied, unless the director grants an exemption pursuant to subdivision (e).

(b) In addition to the applicant, this section shall be applicable to criminal convictions of the following persons:

(1) Adults responsible for administration or direct supervision of staff.

(2) Any person, other than a client, residing in the facility.

(3) Any person who provides client assistance in dressing,

grooming, bathing, or personal hygiene.

(4) Any staff person or employee who has frequent and routine contact with the clients. In determining who has frequent contact, any volunteer who is in the facility shall be exempt unless the volunteer is used to replace or supplement staff in providing direct care and supervision of clients. In determining who has routine contact, staff and employees under direct onsite supervision and who are not providing direct care and supervision or who have only occasional or intermittent contact with clients shall be exempt.

(5) If the applicant is a firm, partnership, association, or corporation, the chief executive officer or other person serving in like capacity.

(6) Additional officers of the governing body of the applicant, or other persons with a financial interest in the applicant, as determined necessary by the department by regulation. The criteria used in the development of these regulations shall be based on the person's capability to exercise substantial influence over the operation of the facility.

(c) Subsequent to initial licensure, any person specified in subdivision (b) and not exempted from fingerprinting shall, as a condition to employment, residence, or presence in a residential facility for the elderly, be fingerprinted and sign a declaration under penalty of perjury regarding any prior criminal convictions. The licensee shall submit these fingerprints to the licensing agency not later than 20 days following employment, residence, or initial presence in the residential care facility for the elderly. Except for persons specified in paragraph (2) of subdivision (b), the licensee shall endeavor to ascertain the previous employment history of persons required to be fingerprinted under this subdivision. If it is determined by the State Department of Social Services, on the basis of the fingerprints submitted to the Department of Justice, that the person has been convicted of a sex offense against a minor, or has been convicted for an offense specified in Section 243.4, 273a, 273d, or subdivision (a) or (b) of Section 368 of the Penal Code, or has been convicted of a felony, the State Department of Social Services shall notify the licensee to act immediately to terminate the person's employment, remove the person from the residential care facility for the elderly, or bar the person from entering the residential care facility for the elderly. The State Department of Social Services may subsequently grant an exemption pursuant to subdivision (e). If the conviction was for another crime, except a minor traffic violation, the licensee shall, upon notification by the State Department of Social Services, act immediately to either (1) terminate the person's employment, remove the person from the residential care facility for the elderly, or bar the person from entering the residential care facility for the elderly; or (2) seek an exemption pursuant to subdivision (e). The department shall determine if the person shall be allowed to remain in the facility until a decision on the exemption is rendered.

(d) For purposes of this section or any other provision of this chapter, a conviction means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action which the department is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of the sentence, notwithstanding a subsequent order pursuant to the provisions of Sections 1203.4 and 1203.4a of the Penal Code permitting such person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or indictment. For purposes of this section or any other provision of this chapter, the record of a conviction, or a copy thereof certified by the clerk of the court or by a judge of the court in which the conviction occurred, shall be conclusive evidence of the conviction.

(e) After review of the record, the director may grant an exemption from disqualification for a license pursuant to subdivision (a), or for employment, residence, or presence in a residential care facility for the elderly as specified in subdivision (c) if the director has substantial and convincing evidence to support a reasonable belief that the applicant and the person convicted of the crime, if other than the applicant, are of such good character as to justify issuance of the license or special permit or granting an exemption for purposes of subdivision (c). However, no exemption shall be granted pursuant to this subdivision if the conviction was for an offense specified in Section 220, 243.4 264.1, or paragraph (1) of Section 273a or Section 273d, or Section 288 or 289, or subdivision (a) or (b) of Section 368 of the Penal Code, or was a conviction of another crime against an individual specified in subdivision (c) of Section 667.5 of the Penal Code.

(f) For purposes of compliance with this section, the department may permit an individual to transfer a current criminal records clearance, as defined in subdivision (a), from one facility to another, as long as the criminal record clearance has been processed through a state licensing district office, and is being transferred to another state licensing district office.

(g) If a licensee or facility is required by law to deny employment of any employee based on written notification from the state department that the employee has a prior criminal conviction or is determined unsuitable for employment under Section 1569.58, that licensee or facility shall not incur any civil liability or unemployment insurance liability as a result of that denial or termination.

SEC. 7.5. Section 1569.17 of the Health and Safety Code is amended to read:

1569.17. It is the intent of the Legislature in enacting this section to require the fingerprints of those individuals whose contact with clients of residential care facilities for the elderly may pose a risk to the clients' health and safety.

(a) Before issuing a license to any person or persons to operate or manage a residential care facility for the elderly, the department shall secure from an appropriate law enforcement agency a criminal record to determine whether the applicant or any other person specified in subdivision (b) has ever been convicted of a crime other than a minor traffic violation. If it is found that the applicant or any other person specified in subdivision (b) has been convicted of a crime, other than a minor traffic violation, the Department of Justice shall notify the State Department of Social Services of that fact and the application shall be denied, unless the director grants an exemption pursuant to subdivision (e). If no criminal record information has been recorded, the Department of Justice shall provide the applicant and the State Department of Social Services with a statement of that fact.

(b) In addition to the applicant, the provisions of this section shall be applicable to criminal convictions of the following persons:

(1) Adults responsible for administration or direct supervision of staff.

(2) Any person, other than a client, residing in the facility.

(3) Any person who provides client assistance in dressing, grooming, bathing, or personal hygiene.

(4) Any staff person or employee who has frequent and routine contact with the clients. In determining who has frequent contact, any volunteer who is in the facility shall be exempt unless the volunteer is used to replace or supplement staff in providing direct care and supervision of clients. In determining who has routine contact, staff and employees under direct onsite supervision and who are not providing direct care and supervision or who have only occasional or intermittent contact with clients shall be exempt.

(5) If the applicant is a firm, partnership, association, or corporation, the chief executive officer or other person serving in like capacity.

(6) Additional officers of the governing body of the applicant, or other persons with a financial interest in the applicant, as determined necessary by the department by regulation. The criteria used in the development of these regulations shall be based on the person's capability to exercise substantial influence over the operation of the facility.

(c) Subsequent to initial licensure, any person specified in subdivision (b) and not exempted from fingerprinting shall, as a condition to employment, residence, or presence in a residential facility for the elderly, be fingerprinted and sign a declaration under penalty of perjury regarding any prior criminal convictions. The licensee shall submit these fingerprints to the Department of Justice not later than four calendar days following employment, residence, or initial presence in the residential care facility for the elderly.

These fingerprints shall be on a card provided by the State Department of Social Services for the purpose of obtaining a permanent set of fingerprints. Fingerprints not submitted to the

Department of Justice, as required in this section, shall result in the citation of a deficiency and the fingerprints shall then be submitted to the State Department of Social Services for processing.

Within 30 calendar days of the receipt of the fingerprints, the Department of Justice shall notify the State Department of Social Services of the criminal record information, as provided for in this subdivision. If no criminal record information has been recorded, the Department of Justice shall provide the licensee and the State Department of Social Services with a statement of that fact within 15 calendar days of receipt of the fingerprints. If new fingerprints are required for processing, the Department of Justice shall, within 15 calendar days from the date of receipt of the fingerprints, notify the licensee that the fingerprints were illegible.

Except for persons specified in paragraph (2) of subdivision (b), the licensee shall endeavor to ascertain the previous employment history of persons required to be fingerprinted under this subdivision. If it is determined by the State Department of Social Services, on the basis of the fingerprints submitted to the Department of Justice, that the person has been convicted of a sex offense against a minor, or has been convicted for an offense specified in Section 243.4, 273a, 273d, or subdivision (a) or (b) of Section 368 of the Penal Code, or has been convicted of a felony, the State Department of Social Services shall notify the licensee to act immediately to terminate the person's employment, remove the person from the residential care facility for the elderly, or bar the person from entering the residential care facility for the elderly. The State Department of Social Services may subsequently grant an exemption pursuant to subdivision (e). If the conviction was for another crime, except a minor traffic violation, the licensee shall, upon notification by the State Department of Social Services, act immediately to either (1) terminate the person's employment, remove the person from the residential care facility for the elderly, or bar the person from entering the residential care facility for the elderly; or (2) seek an exemption pursuant to subdivision (e). The department shall determine if the person shall be allowed to remain in the facility until a decision on the exemption is rendered.

(d) For purposes of this section or any other provision of this chapter, a conviction means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action which the department is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of the sentence, notwithstanding a subsequent order pursuant to the provisions of Sections 1203.4 and 1203.4a of the Penal Code permitting such person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or indictment. For purposes of this section or any other provision of this chapter, the record of a

conviction, or a copy thereof certified by the clerk of the court or by a judge of the court in which the conviction occurred, shall be conclusive evidence of the conviction.

(e) After review of the record, the director may grant an exemption from disqualification for a license pursuant to subdivision (a), or for employment, residence, or presence in a residential care facility for the elderly as specified in subdivision (c) if the director has substantial and convincing evidence to support a reasonable belief that the applicant and the person convicted of the crime, if other than the applicant, are of such good character as to justify issuance of the license or special permit or granting an exemption for purposes of subdivision (c). However, no exemption shall be granted pursuant to this subdivision if the conviction was for an offense specified in Section 220, 243.4, 264.1, or paragraph (1) of Section 273a or Section 273d, or Section 288 or 289, or subdivision (a) or (b) of Section 368 of the Penal Code, or was a conviction of another crime against an individual specified in subdivision (c) of Section 667.5 of the Penal Code.

(f) For purposes of compliance with this section, the department may permit an individual to transfer a current criminal records clearance, as defined in subdivision (a), from one facility to another, as long as the criminal record clearance has been processed through a state licensing district office, and is being transferred to another state licensing district office.

(g) If a licensee or facility is required by law to deny employment or to terminate employment of any employee based on written notification from the state department that the employee has a prior criminal conviction or is determined unsuitable for employment under Section 1569.58, the licensee or facility shall not incur civil liability or unemployment insurance liability as a result of that denial or termination.

SEC. 8. Section 1569.314 of the Health and Safety Code is amended to read:

1569.314. A residential care facility for the elderly shall not require residents to purchase medications, or rent or purchase medical supplies or equipment, from any particular pharmacy or other source.

This section shall not preclude a residential care facility for the elderly from requiring that residents who need assistance with the purchasing, storing, or taking of medications comply with the facility's policies and procedures regarding storage of medications and methods of assisting residents with the taking of medications, if the policies and procedures are reasonably necessary and meet the intent of state or federal regulations.

SEC. 9. Section 1569.406 of the Health and Safety Code is amended to read:

1569.406. Any person who, without lawful authorization from a duly authorized officer, employee, or agent of the department, informs an owner, operator, employee, agent, or resident of a

residential care facility for the elderly of an impending and unannounced site visit to that facility by personnel of the department, except for a site visit prior to licensing the facility, is guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not to exceed one thousand dollars ($1,000), by imprisonment in the county jail for a period not to exceed 180 days, or by both a fine and imprisonment.

SEC. 10. Section 1569.47 of the Health and Safety Code is amended to read:

1569.47. (a) "Placement agency" means any county welfare department, county social service department, county mental health department, county public guardian, general acute care hospital discharge planner or coordinator, state-funded program or private agency providing placement or referral services, conservator pursuant to Part 3 (commencing with Section 1800) of Division 4 of the Probate Code, conservator pursuant to Chapter 3 (commencing with Section 5350) of Part 1 of Division 5 of the Welfare and Institutions Code, and regional center for persons with developmental disabilities which is engaged in finding homes or other places for the placement of elderly persons for temporary or permanent care.

(b) A placement agency shall not place individuals in licensed residential care facilities for the elderly when the individual, because of his or her health condition, cannot be cared for within the limits of the license or requires inpatient care in a health facility. Violation of this subdivision is a misdemeanor.

(c) A placement agency or employee of a placement agency shall not place, refer, or recommend placement of a person in a facility providing care and supervision, or protective supervision, unless the facility is licensed as a residential care facility for the elderly or is exempt from licensing under Section 1569.145. Violation of this subdivision is a misdemeanor.

(d) Any employee of a placement agency who knows, or reasonably suspects, that a facility which is not exempt from licensing is operating without a license shall report the name and address of the facility to the department. Failure to report as required by this subdivision is a misdemeanor.

(e) The department shall investigate any report filed under subdivision (d). If the department has probable cause to believe that the facility which is the subject of the report is operating without a license, the department shall investigate the facility within 10 days after receipt of the report.

(f) A placement agency shall notify the appropriate licensing agency of any known or suspected incidents which would jeopardize the health or safety of residents in a residential care facility for the elderly. Reportable incidents include, but are not limited to, all of the following:

(1) Incidents of physical abuse.

(2) Any violation of personal rights.

(3) Any situation in which a facility is unclean, unsafe, unsanitary, or in poor condition.

(4) Any situation in which a facility has insufficient personnel or incompetent personnel on duty.

(5) Any situation in which residents experience mental or verbal abuse.

SEC. 11. Section 1569.70 is added to the Health and Safety Code, to read:

1569.70. It is the intent of the Legislature to develop and implement a plan to establish three levels of care under the residential care facility for the elderly license, subject to future Budget Act appropriations and statutory authorization to implement levels of care.

(a) The guidelines for the development of these levels of care are:

(1) Level I-Base care and supervision. Residents at this level are able to maintain a higher degree of independence and need only minimum care and supervision, as defined, and minimal personal care assistance.

(2) Level II-Nonmedical personal care. Residents at this level have functional limitations and psychosocial needs requiring not only care and supervision but frequent assistance with personal activities of daily living and active intervention to help then maintain their potential for independent living.

(3) Level III-Health related assistance. Residents at this level require the services of lower levels and rely on the facility for extensive assistance with personal activities of daily living. This level may include residents who also require the occasional services of an appropriate skilled professional due to chronic health problems and returning residents recovering from illness, injury, or treatment which required placement in facilities providing higher levels of care.

These levels are to be based on the services required by residents at each level due to their functional limitations.

(b) The levels of care plan shall include:

(1) Guidelines for meeting requirements at each level of care by utilizing appropriate community and professional services. Options shall be provided to allow facilities to meet resident needs by accessing community services or hiring appropriate staff.

(2) Assessment procedures for facility evaluation of residents' level of care needs.

(3) Process for ensuring the individual facility's ability to serve clients at each level of care they intend to provide.

(4) Recommendations for a supplemental rate structure based on the services required at Levels II and III to be provided for residents who need those levels of care and are recipients of SSI/SSP. These rates shall be in addition to the basic SSI/SSP rate for providing care supervision and shall reflect actual costs of operation for residential care facilities for the elderly.

(5) Procedures for assessment and certification of SSI/SSP

recipients, by county social services departments to allow for administration of the supplemental rate structure.

(6) Procedures for evaluating and monitoring the appropriateness of the levels of care determined for SSI/SSP recipients.

(c) Implementation of the levels of care system shall consider the applicability of the 1985 level of care report developed by the Health and Welfare Agency, so as to ensure continuity in the residential care facility for the elderly program as outlined under this chapter.

SEC. 12. Section 1596.8715 is added to the Health and Safety Code, to read:

1596.8715. If a licensee or facility is required by law to deny employment or to terminate employment of any employee based on written notification from the state department that the employee has a prior criminal conviction or is determined unsuitable for employment under Section 1596.8897, the licensee or facility shall not incur civil liability or unemployment insurance liability as a result of that denial or termination.

SEC. 13. Section 1596.8915 of the Health and Safety Code is amended to read:

1596.8915. Any person who, without lawful authorization from a duly authorized officer, employee, or agent of the department, informs an owner, operator, employee, or agent of a child day care facility of an impending and unannounced site visit to that facility by personnel of the department, is guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not to exceed one thousand dollars ($1,000), by imprisonment in the county jail for a period not to exceed 180 days, or by both a fine and imprisonment.

SEC. 14. Section 1.5 of this bill incorporates amendments to Section 1522 of the Health and Safety Code proposed by both this bill and AB 1797. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1992, (2) each bill amends Section 1522 of the Health and Safety Code, and (3) this bill is enacted after AB 1797, in which case Section 1 of this bill shall not become operative.

SEC. 15. Section 4.5 of this bill incorporates amendments to Section 1568.09 of the Health and Safety Code proposed by both this bill and AB 1797. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1992, (2) each bill amends Section 1568.09 of the Health and Safety Code, and (3) this bill is enacted after AB 1797, in which case Section 4 of this bill shall not become operative.

SEC. 16. Section 7.5 of this bill incorporates amendments to Section 1569.17 of the Health and Safety Code proposed by both this bill and AB 1797. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1992, (2) each bill amends Section 1569.17 of the Health and Safety Code, and (3) this bill is enacted after AB 1797, in which case Section 7 of this bill shall not become operative.

SEC. 17. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 889

An act to amend Section 65583 of, and to add Sections 65588.5 and 65589.7 to, the Government Code, relating to housing elements.

[Approved by Governor October 12, 1991. Filed with Secretary of State October 14, 1991.]

The people of the State of California do enact as follows:

SECTION 1. Section 65583 of the Government Code is amended to read:

65583. The housing element shall consist of an identification and analysis of existing and projected housing needs and a statement of goals, policies, quantified objectives, and scheduled programs for the preservation, improvement, and development of housing. The housing element shall identify adequate sites for housing, including rental housing, factory-built housing, and mobilehomes, and shall make adequate provision for the existing and projected needs of all economic segments of the community. The element shall contain all of the following:

(a) An assessment of housing needs and an inventory of resources and constraints relevant to the meeting of these needs. The assessment and inventory shall include the following:

(1) An analysis of population and employment trends and documentation of projections and a quantification of the locality's existing and projected housing needs for all income levels. These existing and projected needs shall include the locality's share of the regional housing need in accordance with Section 65584.

(2) An analysis and documentation of household characteristics, including level of payment compared to ability to pay, housing characteristics, including overcrowding, and housing stock condition.

(3) An inventory of land suitable for residential development, including vacant sites and sites having potential for redevelopment, and an analysis of the relationship of zoning and public facilities and services to these sites.

(4) An analysis of potential and actual governmental constraints upon the maintenance, improvement, or development of housing for all income levels, including, land use controls, building codes and their enforcement, site improvements, fees and other exactions required of developers, and local processing and permit procedures.

(5) An analysis of potential and actual nongovernmental constraints upon the maintenance, improvement, or development of housing for all income levels, including the availability of financing, the price of land, and the cost of construction.

(6) An analysis of any special housing needs, such as those of the handicapped, elderly, large families, farmworkers, families with female heads of households, and families and persons in need of emergency shelter.

(7) An analysis of opportunities for energy conservation with respect to residential development.

(8) An analysis of existing assisted housing developments that are eligible to change from low-income housing uses during the next 10 years due to termination of subsidy contracts, mortgage prepayment, or expiration of restrictions on use. "Assisted housing developments," for the purpose of this section, shall mean multifamily rental housing that receives governmental assistance under federal programs listed in subdivision (a) of Section 65863.10, state and local multifamily revenue bond programs, local redevelopment programs, the federal Community Development Block Grant Program, or local in-lieu fees. "Assisted housing developments" shall also include multifamily rental units that were developed pursuant to a local inclusionary housing program or used to qualify for a density bonus pursuant to Section 65916.

(A) The analysis shall include a listing of each development by project name and address, the type of governmental assistance received, the earliest possible date of change from low-income use and the total number of elderly and nonelderly units that could be lost from the locality's low-income housing stock in each year during the 10-year period. For purposes of state and federally funded projects, the analysis required by this subparagraph need only contain information available on a statewide basis.

(B) The analysis shall estimate the total cost of producing new rental housing that is comparable in size and rent levels, to replace the units that could change from low-income use, and an estimated cost of preserving the assisted housing developments. This cost analysis for replacement housing may be done aggregately for each five-year period and does not have to contain a project by project cost estimate.

(C) The analysis shall identify public and private nonprofit corporations known to the local government which have legal and managerial capacity to acquire and manage these housing developments.

(D) The analysis shall identify and consider the use of all federal, state, and local financing and subsidy programs which can be used

to preserve, for lower income households, the assisted housing developments, identified in this paragraph, including, but not limited to, federal Community Development Block Grant Program funds, tax increment funds received by a redevelopment agency of the community, and administrative fees received by a housing authority operating within the community. In considering the use of these financing and subsidy programs, the analysis shall identify the amounts of funds under each available program which have not been legally obligated for other purposes and which could be available for use in preserving assisted housing developments.

(b) (1) A statement of the community's goals, quantified objectives, and policies relative to the maintenance, preservation, improvement, and development of housing.

(2) It is recognized that the total housing needs identified pursuant to subdivision (a) may exceed available resources and the community's ability to satisfy this need within the content of the general plan requirements outlined in Article 5 (commencing with Section 65300). Under these circumstances, the quantified objectives need not be identical to the total housing needs. The quantified objectives shall establish the maximum number of housing units by income category that can be constructed, rehabilitated, and conserved over a five-year time period.

(c) A program which sets forth a five-year schedule of actions the local government is undertaking or intends to undertake to implement the policies and achieve the goals and objectives of the housing element through the administration of land use and development controls, provision of regulatory concessions and incentives, and the utilization of appropriate federal and state financing and subsidy programs when available and the utilization of moneys in a Low and Moderate Income Housing Fund of an agency if the locality has established a redevelopment project area pursuant to the Community Redevelopment Law (Division 24 (commencing with Section 33000) of the Health and Safety Code). In order to make adequate provision for the housing needs of all economic segments of the community, the program shall do all of the following:

(1) Identify adequate sites which will be made available through appropriate zoning and development standards and with public services and facilities needed to facilitate and encourage the development of a variety of types of housing for all income levels, including multifamily rental housing, factory-built housing, mobilehomes, emergency shelters, and transitional housing in order to meet the community's housing goals as identified in subdivision (b). Where the inventory of sites, pursuant to paragraph (3) of subdivision (a), does not identify adequate sites to accommodate the need for groups of all household income levels pursuant to Section 65584, the program shall provide for sufficient sites with zoning which permits owner-occupied and rental multifamily residential use by right, including density and development standards, which could accommodate and facilitate the feasibility of housing for very

low and low-income households. For purposes of this paragraph, the phrase "use by right" shall mean the use does not require a conditional use permit, except when the proposed project is a mixed-use project involving both commercial and residential uses. Use by right for all rental multifamily residential housing shall be provided in accordance with subdivision (f) of Section 65589.5.

(2) Assist in the development of adequate housing to meet the needs of low-income and moderate-income households.

(3) Address and, where appropriate and legally possible, remove governmental constraints to the maintenance, improvement, and development of housing.

(4) Conserve and improve the condition of the existing affordable housing stock.

(5) Promote housing opportunities for all persons regardless of race, religion, sex, marital status, ancestry, national origin, or color.

(6) Preserve for lower income households the assisted housing developments identified pursuant to paragraph (8) of subdivision (a). The program for preservation of the assisted housing developments shall utilize, to the extent necessary, all available federal, state, and local financing and subsidy programs identified in paragraph (8) of subdivision (a), except where a community has other urgent needs for which alternative funding sources are not available. The program may include strategies that involve local regulation and technical assistance.

The program shall include an identification of the agencies and officials responsible for the implementation of the various actions and the means by which consistency will be achieved with other general plan elements and community goals. The local government shall make a diligent effort to achieve public participation of all economic segments of the community in the development of the housing element, and the program shall describe this effort.

(d) The analysis and program for preserving assisted housing developments required by the amendments to this section enacted by the Statutes of 1989 shall be adopted as an amendment to the housing element by July 1, 1992.

(e) Failure of the department to review and report its findings pursuant to Section 65585 to the local government between July 1, 1992, and the next periodic review and revision required by Section 65588, concerning the housing element amendment required by the amendments to this section by the Statutes of 1989, shall not be used as a basis for allocation or denial of any housing assistance administered pursuant to Part 2 (commencing with Section 50400) of Division 31 of the Health and Safety Code.

SEC. 2. Section 65583 of the Government Code is amended to read:

65583. The housing element shall consist of an identification and analysis of existing and projected housing needs and a statement of goals, policies, quantified objectives, and scheduled programs for the preservation, improvement, and development of housing. The

housing element shall identify adequate sites for housing, including rental housing, factory-built housing, and mobilehomes, and shall make adequate provision for the existing and projected needs of all economic segments of the community. The element shall contain all of the following:

(a) An assessment of housing needs and an inventory of resources and constraints relevant to the meeting of these needs. The assessment and inventory shall include the following:

(1) An analysis of population and employment trends and documentation of projections and a quantification of the locality's existing and projected housing needs for all income levels. These existing and projected needs shall include the locality's share of the regional housing need in accordance with Section 65584.

(2) An analysis and documentation of household characteristics, including level of payment compared to ability to pay, housing characteristics, including overcrowding, and housing stock condition.

(3) An inventory of land suitable for residential development, including vacant sites and sites having potential for redevelopment, and an analysis of the relationship of zoning and public facilities and services to these sites.

(4) An analysis of potential and actual governmental constraints upon the maintenance, improvement, or development of housing for all income levels, including land use controls, building codes and their enforcement, site improvements, fees and other exactions required of developers, and local processing and permit procedures.

(5) An analysis of potential and actual nongovernmental constraints upon the maintenance, improvement, or development of housing for all income levels, including the availability of financing, the price of land, and the cost of construction.

(6) An analysis of any special housing needs, such as those of the handicapped, elderly, large families, farmworkers, families with female heads of households, and families and persons in need of emergency shelter.

(7) An analysis of opportunities for energy conservation with respect to residential development.

(8) An analysis of existing assisted housing developments that are eligible to change from low-income housing uses during the next 10 years due to termination of subsidy contracts, mortgage prepayment, or expiration of restrictions on use. "Assisted housing developments," for the purpose of this section, shall mean multifamily rental housing that receives governmental assistance under federal programs listed in subdivision (a) of Section 65863.10, state and local multifamily revenue bond programs, local redevelopment programs, the federal Community Development Block Grant Program, or local in-lieu fees. "Assisted housing developments" shall also include multifamily rental units that were developed pursuant to a local inclusionary housing program or used to qualify for a density bonus pursuant to Section 65916.

(A) The analysis shall include a listing of each development by project name and address, the type of governmental assistance received, the earliest possible date of change from low-income use and the total number of elderly and nonelderly units that could be lost from the locality's low-income housing stock in each year during the 10-year period. For purposes of state and federally funded projects, the analysis required by this subparagraph need only contain information available on a statewide basis.

(B) The analysis shall estimate the total cost of producing new rental housing that is comparable in size and rent levels, to replace the units that could change from low-income use, and an estimated cost of preserving the assisted housing developments. This cost analysis for replacement housing may be done aggregately for each five-year period and does not have to contain a project by project cost estimate.

(C) The analysis shall identify public and private nonprofit corporations known to the local government which have legal and managerial capacity to acquire and manage these housing developments.

(D) The analysis shall identify and consider the use of all federal, state, and local financing and subsidy programs which can be used to preserve, for lower income households, the assisted housing developments, identified in this paragraph, including, but not limited to, federal Community Development Block Grant Program funds, tax increment funds received by a redevelopment agency of the community, and administrative fees received by a housing authority operating within the community. In considering the use of these financing and subsidy programs, the analysis shall identify the amounts of funds under each available program which have not been legally obligated for other purposes and which could be available for use in preserving assisted housing developments.

(b) (1) A statement of the community's goals, quantified objectives, and policies relative to the maintenance, preservation, improvement, and development of housing.

(2) It is recognized that the total housing needs identified pursuant to subdivision (a) may exceed available resources and the community's ability to satisfy this need within the content of the general plan requirements outlined in Article 5 (commencing with Section 65300). Under these circumstances, the quantified objectives need not be identical to the total housing needs. The quantified objectives shall establish the maximum number of housing units by income category that can be constructed, rehabilitated, and conserved over a five-year time period.

(c) A program which sets forth a five-year schedule of actions the local government is undertaking or intends to undertake to implement the policies and achieve the goals and objectives of the housing element through the administration of land use and development controls, provision of regulatory concessions and incentives, and the utilization of appropriate federal and state

financing and subsidy programs when available and the utilization of moneys in a Low and Moderate Income Housing Fund of an agency if the locality has established a redevelopment project area pursuant to the Community Redevelopment Law (Division 24 (commencing with Section 33000) of the Health and Safety Code). In order to make adequate provision for the housing needs of all economic segments of the community, the program shall do all of the following:

(1) Identify adequate sites which will be made available through appropriate zoning and development standards and with public services and facilities needed to facilitate and encourage the development of a variety of types of housing for all income levels, including multifamily rental housing, factory-built housing, mobilehomes, emergency shelters, and transitional housing in order to meet the community's housing goals as identified in subdivision (b). Where the inventory of sites, pursuant to paragraph (3) of subdivision (a), does not identify adequate sites to accommodate the need for groups of all household income levels pursuant to Section 65584, the program shall provide for sufficient sites with zoning that permits owner-occupied and rental multifamily residential use by right, including density and development standards that could accommodate and facilitate the feasibility of housing for very low and low-income households. For purposes of this paragraph, the phrase "use by right" shall mean the use does not require a conditional use permit, except when the proposed project is a mixed-use project involving both commercial and residential uses. Use by right for all rental multifamily residential housing shall be provided in accordance with subdivision (f) of Section 65589.5.

(2) Assist in the development of adequate housing to meet the needs of low- and moderate-income households.

(3) Address and, where appropriate and legally possible, remove governmental constraints to the maintenance, improvement, and development of housing.

(4) Conserve and improve the condition of the existing affordable housing stock, which may include addressing ways to mitigate the loss of dwelling units demolished by public or private action.

(5) Promote housing opportunities for all persons regardless of race, religion, sex, marital status, ancestry, national origin, or color.

(6) (A) Preserve for lower income households the assisted housing developments identified pursuant to paragraph (8) of subdivision (a). The program for preservation of the assisted housing developments shall utilize, to the extent necessary, all available federal, state, and local financing and subsidy programs identified in paragraph (8) of subdivision (a), except where a community has other urgent needs for which alternative funding sources are not available. The program may include strategies that involve local regulation and technical assistance.

(B) The program shall include an identification of the agencies and officials responsible for the implementation of the various actions and the means by which consistency will be achieved with

other general plan elements and community goals. The local government shall make a diligent effort to achieve public participation of all economic segments of the community in the development of the housing element, and the program shall describe this effort.

(d) The analysis and program for preserving assisted housing developments required by the amendments to this section enacted by the Statutes of 1989 shall be adopted as an amendment to the housing element by July 1, 1992.

(e) Failure of the department to review and report its findings pursuant to Section 65585 to the local government between July 1, 1992, and the next periodic review and revision required by Section 65588, concerning the housing element amendment required by the amendments to this section by the Statutes of 1989, shall not be used as a basis for allocation or denial of any housing assistance administered pursuant to Part 2 (commencing with Section 50400) of Division 31 of the Health and Safety Code.

SEC. 3. Section 65588.5 is added to the Government Code, to read:

65588.5. A copy of the report required by subdivision (b) of Section 65400 shall be submitted to the Department of Housing and Community Development within 30 days after receipt by the legislative body.

SEC. 4. Section 65589.7 is added to the Government Code, to read:

65589.7. The housing element adopted by the legislative body and any amendments made to that element shall be delivered to all special districts that provide water services at retail or sewer services and to other private entities that provide water services at retail or sewer services within the territory of the legislative body. When allocating or making plans for the allocation of available and future resources or services designated for residential use, each special district providing water services at retail or sewer services and other private entities providing water services at retail or sewer services, shall grant a priority for the provision of these available and future resources or services to proposed housing developments which help meet the city's, county's, or city and county's share of the regional housing need for lower income households as identified in the housing element adopted by the legislative body and any amendments made to that element. This section is intended to neither enlarge nor diminish the existing authority of a city, county or city and county in adopting a housing element. Failure to deliver a housing element adopted by the legislative body or amendments made to that element, to a special district or private entity providing water services at retail or sewer services shall not invalidate any action or approval of a development project. The special districts which provide water services at retail or sewer services related to development, as defined in subdivision (e) of Section 56426, are included within this section.

As used in this section, "water services at retail" means supplying water directly to the end user or consumer of that water, and does not include sale by a water supplier to another water supplier for resale.

SEC. 5. The additional requirements and duties created by Sections 1, 2, and 4 of this act shall be applicable upon the next amendment or periodic review of the housing element by the legislative body.

SEC. 6. Section 2 of this bill incorporates amendments to Section 65583 of the Government Code proposed by both this bill and AB 1929. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1992, (2) each bill amends Section 65583 of the Government Code, and (3) this bill is enacted after AB 1929, in which case Section 1 of this bill shall not become operative.

SEC. 7. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 890

An act to add Section 701.6 to the Public Utilities Code, relating to public utilities.

[Approved by Governor October 12, 1991. Filed with Secretary of State October 14, 1991.]

The people of the State of California do enact as follows:

SECTION 1. Section 701.6 is added to the Public Utilities Code, to read:

701.6. (a) The commission may authorize gas and electrical corporations to include in ratepayer-supported research and development programs, activities that relate to improving the energy efficiency of manufactured housing and mobilehomes if those programs are evaluated in accordance with the guidelines established by Section 740.1. The commission may develop a program involving utilities, representatives of the manufactured housing and mobilehome industries, and organizations representing

senior citizens and consumers to increase the construction and marketing of energy efficiency measures for mobilehomes and manufactured housing.

(b) The commission may authorize gas and electrical corporations to provide incentives to seniors, low-income households, and others who buy new manufactured homes, or mobilehomes, which incorporate energy efficient measures.

(c) The commission may authorize gas and electrical corporations to recover through rates the reasonable costs associated with the programs specified in subdivisions (a) and (b).

(d) The commission shall report to the Legislature on the status of utility programs to support the construction and purchase of energy efficient manufactured homes and mobilehomes, and on energy savings achieved or expected to be achieved as a result of these utility programs. The first report shall be submitted to the Legislature on January 1, 1994, additional reports shall subsequently be submitted on a biennial basis, and a final report shall be submitted to the Legislature on January 1, 1998.

CHAPTER 891

An act to amend Section 41712 of the Health and Safety Code, relating to air pollution, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 12, 1991 Filed with Secretary of State October 14, 1991]

The people of the State of California do enact as follows:

SECTION 1. Section 41712 of the Health and Safety Code is amended to read:

41712. (a) On or before January 1, 1992, the state board shall adopt regulations to achieve the maximum feasible reduction in reactive organic compounds emitted by consumer products, if the state board determines that adequate data exists for it to adopt the regulations.

(b) The state board shall not adopt regulations pursuant to subdivision (a) unless the regulations are technologically and commercially feasible, and necessary to carry out this division. The state board shall consider the effect that the regulations proposed for health benefit products will have on the efficacy of those products in killing or inactivating agents of infectious diseases such as viruses, bacteria, and fungi, and the impact the regulations will have on the availability of health benefit products to California consumers.

(c) For purposes of this section, a "consumer product" means a chemically formulated product used by household and institutional consumers, including, but not limited to, detergents; cleaning

compounds; polishes; floor finishes; cosmetics; personal care products; home, lawn, and garden products; disinfectants; sanitizers; and automotive specialty products; but does not include paint, furniture coatings, or architectural coatings.

(d) (1) Prior to adopting regulations pursuant to this section governing health benefit products, including, but not limited to, disinfectants, the state board shall consider any recommendations received from federal, state, or local public health agencies and medical experts in the field of public health.

(2) Within 30 days after the adoption of any regulation pursuant to this section governing health benefit products, the state board shall prepare and submit to the Legislature and the Governor a report which summarizes any recommendations received pursuant to paragraph (1) and any conclusions made by the state board concerning the recommendations.

(3) For purposes of this subdivision, the following definitions apply:

(A) "Health benefit product" means an antimicrobial product registered with the Environmental Protection Agency.

(B) "Medical expert" means a physician, including a pediatrician, a microbiologist, or a scientist involved in research related to infectious disease and infection control.

(e) Prior to January 1, 1994, a district shall adopt no regulation relating to a consumer product which is different than any regulation adopted by the state board for that purpose.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

The State Air Resources Board issued draft regulations on July 9, 1991, proposing volatile organic compound limits for aerosol disinfectants. These regulations may be adopted in December of this year. In order for this act to provide timely policy guidance to the State Air Resources Board, it must become effective prior to December 1991. It is necessary, therefore, that this act take effect immediately as an urgency statute.

CHAPTER 892

An act to amend Sections 9350.6, 9354, 22600, 22840, 22840.2, and 50956 of, to add Sections 20340, 20492.3, 20654.2, and 75052.5 to, and to repeal and add Section 21338 of, the Government Code, relating to retirement, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 12, 1991 Filed with Secretary of State October 14, 1991]

The people of the State of California do enact as follows:

SECTION 1. Section 9350.6 of the Government Code is amended to read:

9350.6. "Compensation" and "salary" mean the remuneration paid in cash out of funds controlled by the state, excluding mileage, reimbursement for expenses incurred in the performance of official duties, and any per diem allowance paid in lieu of such expenses.

Notwithstanding any other provision of the chapter, for purposes of computing a retirement allowance or benefit of a Member of the Legislature, the salary used shall be the highest salary received by the Member of the Legislature while in office.

SEC. 1.5. Section 9354 of the Government Code is amended to read:

9354. The Legislators' Retirement Fund in the State Treasury is hereby established. All moneys received by this system pursuant to this chapter shall be deposited in the fund, and all retirement allowances, benefits, optional settlements, and other obligations or payments payable by this system pursuant to this chapter shall be paid from the fund. Costs of administration shall be paid from annual appropriations from earnings on the fund. Notwithstanding Section 13340, all moneys in the fund are continuously appropriated without regard to fiscal years.

SEC. 2. Section 20340 is added to the Government Code, to read:

20340. A person who is employed under the Senate Fellows, the Assembly Fellows, or the Executive Fellows programs is excluded from membership.

SEC. 2.5. Section 20492.3 is added to the Government Code, to read:

20492.3. Notwithstanding any other provision of law, every employee who enters or reenters service with a contracting agency on and after January 1, 1992, shall immediately become a member of this system irrespective of any probationary period, if the employee would otherwise be eligible for membership. The system shall not exclude employees, or groups of employees, solely on the basis of their status as probationary employees.

SEC. 3. Section 20654.2 is added to the Government Code, to read:

20654.2. If a nonmember, as defined in Section 21215.1, withdraws accumulated contributions in accordance with Section 21215, the member may redeposit those contributions pursuant to this article.

SEC. 4. Section 21338 of the Government Code is repealed.

SEC. 5. Section 21338 is added to the Government Code, to read:

21338. (a) A member retiring for service may elect to have the actuarial equivalent of his or her unmodified service retirement allowance paid in two parts as follows:

(1) A temporary annuity in an amount specified by the member but which shall not result in a reduction to his or her unmodified allowance by more than 50 percent.

(2) A life income consisting of his or her service retirement annuity plus the pension provided by the actuarial value of his or her current and prior service pensions remaining after providing the temporary annuity in paragraph (1).

(b) The temporary annuity under subdivision (a) shall not be subject to further optional settlement under this article and shall be payable monthly under one of the following methods of payment, as designated by the member:

(1) As an addition to his or her monthly life income beginning on his or her effective date of retirement and continuing until the member reaches age 59½ or any whole age between ages 60 and 68, as designated by the member at the time of his or her retirement. If his or her death occurs prior to that age, the commuted value of any remaining installments shall be paid to his or her designated beneficiary in a lump sum.

(2) As an addition to his or her monthly life income beginning at least one year after his or her effective date of retirement and at any whole age between ages 60 and 68, as designated by the member at the time of his or her retirement, and continuing until the member's death.

Notwithstanding any other provision of this part, a member whose allowance would be limited under Section 415 of the Internal Revenue Code shall be paid a temporary annuity benefit in an amount and beginning on a date determined by the board which shall, to the extent possible, cause the member's allowance to be under the Section 415 limits and provide him or her with a lifetime allowance which is actuarially equivalent to that which he or she would have received had the Section 415 limits not been applied.

SEC. 6. Section 22600 of the Government Code is amended to read:

22600. The Old Age and Survivors' Insurance Revolving Fund is continued in existence. Notwithstanding Section 13340, all money in the revolving fund is appropriated without regard to fiscal years to the board to carry out the provisions of this part.

SEC. 7. Section 22840 of the Government Code is amended to read:

22840. For all plans which the board has approved or entered into

a contract, there shall be maintained in the State Treasury a Public Employees' Contingency Reserve Fund to which shall be credited, from time to time as determined by the board, amounts determined by the board and contributed under Section 22826 to provide an adequate contingency reserve. The income derived from any dividends, rate adjustments, or other refunds by a plan shall be credited to the fund.

The board may invest funds in the Public Employees' Contingency Reserve Fund in accordance with the provisions of law governing its investment of the Retirement Fund.

The Public Employees' Contingency Reserve Fund may be utilized to defray increases in future rates, to reduce the contributions of employees and annuitants and the employers, or to increase the benefits provided by any plan to the extent that amounts in the account are derived from that plan, as determined from time to time by the board. Notwithstanding Section 13340, all moneys in the fund are continuously appropriated without regard to fiscal years for those purposes to the extent of all amounts credited to it other than the employers' contribution for administrative expenses, and for administrative expense to the extent of the employers' contribution for that purpose.

The total credited to the Public Employees' Contingency Reserve Fund at any time, for all purposes other than administrative expense, shall be limited, in the manner and to the extent the board may find to be most practical, to a maximum of 10 percent of the total of the contributions of the employers and employees and annuitants in any fiscal year. The board may undertake any action as will insure that the maximum amount prescribed for the fund is approximately maintained.

Board rules adopted pursuant to Section 22810 to minimize the impact of adverse selection because of enrollment of annuitants may provide for deposit in and disbursement to carriers from the Public Employees' Contingency Reserve Fund of the portion of the contributions otherwise payable directly to the carriers by the Controller under Section 22841 as may be required for that purpose. The fund is appropriated for that purpose in addition to the other purposes specified in this section. The deposits shall not be included in applying the limitations, prescribed in this section, on total amounts which may be deposited in or credited to the fund.

SEC. 8. Section 22840.2 of the Government Code is amended to read:

22840.2. (a) There is in the State Treasury a Public Employees' Health Care Fund, the purpose of which is to fund the health benefits plan or plans administered or approved by the board pursuant to the authority conferred on the board by this part. The board shall have the exclusive control of the administration and investment of the Public Employees' Health Care Fund.

(b) The Public Employees' Health Care Fund shall consist of the following:

(1) Any self-funded or minimum premium plan premiums paid by public agencies, the state and enrolled employees, annuitants, and family members, including premiums paid directly for continuation coverage authorized under the Consolidated Omnibus Budget and Reconciliation Act of 1986 or as thereafter amended, and as authorized by this part.

(2) Any other health plan premiums paid by public agencies.

(3) Any reserve moneys from terminated plans designated by the board for payment to self-funded or minimum premium plans.

(c) The board may invest funds in the Public Employees' Health Care Fund pursuant to the law governing its investment of the retirement fund. The board may authorize its investment staff or may contract with independent investment professionals to manage the investments of this fund.

(d) Income, of whatever nature, earned on the Public Employees' Health Care Fund during any fiscal year, shall be credited to the fund.

(e) Notwithstanding Section 13340, the Public Employees' Health Care Fund is continuously appropriated, without regard to fiscal years, to pay benefits and claims costs, to pay the costs of administering self-funded or minimum premium plans, to refund those who made direct premium payments, and to pay such other costs as the board may determine as necessary, consistent with its fiduciary duty.

(f) The Legislature finds and declares that the Public Employees' Health Care Fund is a trust fund held for the exclusive benefit of enrolled employees, annuitants, and family members and the health plan carriers, insurers, and those contracting to provide medical and hospital care services.

SEC. 9. Section 50956 of the Government Code is amended to read:

50956. (a) The Volunteer Firefighters Length of Service Award Fund is hereby created and established in the State Treasury. All moneys received by the award system pursuant to this chapter shall be deposited in the fund. Notwithstanding Section 13340, the moneys in the fund are continuously appropriated to the board, without regard to fiscal years, for payment of the costs of administration of this chapter and for the payment of awards pursuant to this chapter.

(b) The State Treasurer shall be custodian of the fund, subject to the exclusive control of the board as to administration and investment of the fund. All payments from the fund shall be made upon warrants drawn by the Controller upon demands made by the board.

SEC. 10. Section 75052.5 is added to the Government Code, to read:

75052.5. If the nonmember withdraws accumulated contributions in accordance with Section 75052, the member may redeposit those contributions pursuant to this part.

SEC. 11. A legislative employee who elects, because of

Proposition 140 of the 1990 general election, to retire on or after January 1, 1991, and prior to July 1, 1991, either pursuant to Section 20817 of the Government Code or otherwise, within 120 days following the separation date, may, within 60 days after the effective date of this section, enroll in a health benefits plan pursuant to Part 5 (commencing with Section 22751) of Division 5 of Title 2 of the Government Code and, thereupon, shall be deemed to have been enrolled on the date of separation from employment.

This section shall remain operative only until December 31, 1991, and, as of that date, is repealed, unless a later enacted statute deletes or extends that date.

SEC. 12. A legislative employee who is both an exempt employee, as defined in paragraph (1) of subdivision (a) of Section 22816.7 of the Government Code, and an annuitant, as defined in subparagraph (B) of paragraph (2) of subdivision (a) of Section 22816.7, or a state employee, as defined in subparagraph (B) of paragraph (3) of subdivision (a) of Section 22816.7 of the Government Code, but who, prior to resignation, was not enrolled in a health benefits plan under Part 5 (commencing with Section 22751) of Division 5 of Title 2 of the Government Code, and who elects, because of Proposition 140 of the 1990 general election, to resign, on or after January 1, 1991, and prior to July 1, 1991, or who is laid off may enroll, within 60 days after the effective date of this section, in a health benefits plan pursuant to Part 5 and, thereupon, shall continue coverage pursuant to subdivision (b) or (c) of Section 22816.7 of the Government Code, and shall be deemed to have been enrolled on the date of separation from employment, if he or she would, pursuant to Section 22816.7, otherwise be eligible for enrollment or coverage and direct payment of premiums.

This section shall remain in effect only until December 31, 1991, and, as of that date, is repealed, unless a later enacted statute deletes or extends that date.

SEC. 13. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order that legislative employees at risk of losing benefits may be assisted at the earliest possible time, it is necessary that this bill take effect immediately.

CHAPTER 893

An act to amend Sections 5101.5 and 22511.5 of, and to add Sections 324.5, 5007, and 22511.55 to, the Vehicle Code, relating to vehicles.

[Approved by Governor October 12, 1991. Filed with Secretary of State October 14, 1991.]

The people of the State of California do enact as follows:

SECTION 1. Section 324.5 is added to the Vehicle Code, to read:

324.5. A "former prisoner of war" is any person who, while serving as a member of the United States Armed Forces, as a member of the Philippine Commonwealth Armed Forces, as a part of a United States Expeditionary Force, or as a United States civilian, was held as a prisoner of war by forces hostile to the United States during any armed conflict and is currently a resident of California.

SEC. 2. Section 5007 is added to the Vehicle Code, to read:

5007. (a) The department shall, upon application and without additional fees, issue a special identification license plate or plates to a disabled person or disabled veteran, pursuant to procedures adopted by the department.

(b) The special identification plates issued to a disabled person or disabled veteran shall run in a regular numerical series which shall include one or more unique two-letter codes reserved for disabled person license plates or disabled veteran license plates. The International Symbol of Access adopted pursuant to Section 3 of Public Law 100-641 commonly known as the "wheelchair symbol" shall be depicted on each plate unless, at the time of application, the applicant requests the issuance of plates without that symbol.

(c) Prior to issuing any disabled person or disabled veteran a special identification license plate, the department may require the applicant to submit a certificate signed by the physician or surgeon substantiating the disability. The disability of any person who has lost, or has lost use of, one or more lower extremities or both hands, or who has significant limitation in the use of lower extremities, may also be certified by a licensed chiropractor. The blindness of any applicant shall be certified by a licensed physician or surgeon who specializes in diseases of the eye or a licensed optometrist.

(d) The special identification license plate shall, upon the death of the disabled person or disabled veteran, be returned to the department within 60 days or upon the expiration of the vehicle registration, whichever occurs first.

SEC. 3. Section 5101.5 of the Vehicle Code is amended to read:

5101.5. (a) Any person otherwise eligible under this article who is a former prisoner of war may apply for special license plates for the vehicle under this article. The special plates assigned to the vehicle shall run in a separate numerical series and shall have inscribed on the plate the letters "POW" and four numbers that shall

be two and three-quarters inches in height. The department shall, pursuant to this article, reserve and issue the license plates provided for by this section only to persons who show by satisfactory proof his or her former prisoner of war status. Any person otherwise issued license plates within this series pursuant to this article prior to January 1, 1982, may retain them.

(b) In addition to the regular fees for an original registration or renewal of registration, the additional fees specified in Sections 5106 and 5108, as applicable, shall be paid.

SEC. 4. Section 22511.5 of the Vehicle Code is amended to read:

22511.5. (a) (1) Any disabled person or disabled veteran displaying special identification license plates issued under Section 5007 or a placard issued under Section 22511.55 shall be allowed to park for unlimited periods in any of the following zones:

(A) In any restricted zone described in subdivision (e) of Section 21458 or on streets upon which preferential parking privileges and height limits have been given pursuant to Section 22507.

(B) In any parking zone that is restricted as to the length of time parking is permitted as indicated by a sign erected pursuant to a local ordinance.

(2) Any disabled person or disabled veteran shall be allowed to park in any metered parking space without being required to pay any parking meter fees.

(3) This subdivision does not apply to any zone for which state law or ordinance absolutely prohibits stopping, parking, or standing of all vehicles, or which the law or ordinance reserves for special types of vehicles.

(b) Any disabled person or disabled veteran shall be allowed to park a vehicle displaying a special identification disabled person license plate or placard issued by a foreign jurisdiction with the same parking privileges authorized in this code for any vehicle displaying a special identification license plate or placard issued by the Department of Motor Vehicles.

SEC. 5. Section 22511.55 is added to the Vehicle Code, to read:

22511.55. (a) (1) Any disabled person or disabled veteran may apply to the department for the issuance of a distinguishing placard. The placard may be used in lieu of the special identification license plate or plates issued under Section 5007 for parking purposes described in Section 22511.5 when suspended from the rear view mirror or, if there is no rear view mirror, when displayed on the dashboard of a vehicle. It is the intent of the Legislature to encourage the use of these distinguishing placards because they provide law enforcement officers with a more readily recognizable symbol for distinguishing vehicles qualified for the parking privilege. The placard shall be the size and color determined by the department and shall bear the International Symbol of Access adopted pursuant to Section 3 of Public Law 100-641, commonly known as the "wheelchair symbol."

(2) The department may establish procedures for the issuance

and renewal of the placards. The placards shall have a fixed expiration date of June 30 every two years. Whenever any application for a placard is submitted to the department on or after January 1 of the year of expiration, the fee shall be for the current and subsequent renewal period.

As used in this section, "year" means the period between the inclusive dates of July 1 through June 30.

(3) The fee for an original application or renewal application is six dollars ($6).

(4) Except as provided in paragraph (5), no person is eligible for more than one placard at any time.

(5) Organizations and agencies involved in the transportation of disabled persons or disabled veterans may apply for a placard for each vehicle used for the purpose of transporting disabled persons or disabled veterans.

(b) Prior to issuing any disabled person or disabled veteran a distinguishing placard, the department may require the applicant to submit a certificate signed by the physician or surgeon substantiating the disability. The disability of any person who has lost, or has lost use of, one or more lower extremities or both hands, or who has significant limitation in the use of lower extremities, may also be certified by a licensed chiropractor. The blindness of any applicant shall be certified by a licensed physician or surgeon who specializes in diseases of the eye or a licensed optometrist.

(c) Any person who is temporarily disabled for a period of less than six months may apply for a placard as prescribed in subdivision (a).

(d) The distinguishing placard shall, upon the death of the disabled person or disabled veteran, be returned to the department within 60 days or upon the expiration of the vehicle registration, whichever occurs first.

CHAPTER 894

An act to amend Sections 4461, 22511.5, and 40000.7 of, and to add Sections 22511.55 and 22511.56 to, the Vehicle Code, relating to vehicles.

[Approved by Governor October 12, 1991 Filed with Secretary of State October 14, 1991]

The people of the State of California do enact as follows:

SECTION 1. Section 4461 of the Vehicle Code is amended to read:

4461. (a) No person shall lend any certificate of ownership, registration card, license plate, special plate, or permit issued to him or her if the person desiring to borrow it would not be entitled to its

use, nor shall any person knowingly permit its use by one not entitled to it.

(b) No person to whom a disabled person placard has been issued shall lend the placard to any other person, nor shall any disabled person knowingly permit the use of the placard by one not entitled to it. A person to whom a disabled person placard has been issued may permit another person to use the placard only while in the presence or reasonable proximity of the disabled person for the purpose of transporting the disabled person. A violation of this subdivision is a misdemeanor.

(c) Except for the purpose of transporting disabled persons as specified in subdivision (b), no person shall display any disabled person placard that was not issued to him or her or that has been canceled or revoked pursuant to Section 22511.6. A violation of this subdivision is a misdemeanor.

(d) For the purposes of subdivisions (b) and (c), "disabled person placard" means a placard issued pursuant to Section 22511.5.

SEC. 2. Section 22511.5 of the Vehicle Code is amended to read:

22511.5. (a) (1) Any disabled person or disabled veteran operating or using a vehicle shall be allowed to park for unlimited periods in either of the following zones:

(A) Any restricted zone described in subdivision (e) of Section 21458 or on streets upon which preferential parking privileges and height limits have been given pursuant to Section 22507.

(B) Any parking zone that is restricted as to the length of time parking is permitted, as indicated by a sign erected pursuant to a local ordinance.

(2) Any disabled person or disabled veteran shall be allowed to park in any metered parking space without being required to pay any parking meter fees.

(3) This subdivision does not apply to any zone for which state law or local ordinance absolutely prohibits stopping, parking, or standing of all vehicles, or which the law or ordinance reserves for special types of vehicles or to the parking of any vehicle that is involved in the operation of a street vending business.

(b) As a condition to this privilege, the parked vehicle shall display a distinguishing license plate which shall be issued for the vehicle registered to the disabled person or disabled veteran, or for a vehicle not registered to the disabled person or disabled veteran, but which is used primarily to transport a disabled person or disabled veteran, and which would otherwise qualify for a distinguishing license plate if the vehicle were registered to the disabled person or disabled veteran.

The distinguishing license plate shall be issued without additional fees by the Department of Motor Vehicles pursuant to procedures adopted by that department.

(c) (1) Any disabled person or disabled veteran may also apply to the Department of Motor Vehicles for the issuance of a distinguishing placard. The placard may be used in lieu of the

distinguishing license plate for parking purposes described in subdivision (a) when suspended from the rear view mirror or, if there is no rear view mirror, when displayed on the dashboard of a vehicle. It is the intent of the Legislature to encourage the use of these distinguishing placards because they provide law enforcement officers with a readily recognizable symbol for distinguishing vehicles qualified for the parking privilege. The placard shall be the size and color determined by the Department of Motor Vehicles, shall include instructions for its lawful use, and shall incorporate within those instructions a summary of the penalties applying to its unlawful use.

(2) The Department of Motor Vehicles may establish procedures for the issuance and renewal of the placards. The placards shall have a fixed expiration date of June 30 every two years. Whenever any application for a placard is submitted to the Department of Motor Vehicles on or after January 1 of the year of expiration, the fee shall be for the current and subsequent renewal period.

As used in this section, "year" means the period between the inclusive dates of July 1 through June 30.

(3) The fee for an original application or renewal application shall be six dollars ($6).

(4) Except as provided in paragraph (5), no person is eligible for more than one placard at any time.

(5) Organizations and agencies involved in the transportation of disabled persons or disabled veterans may apply for a placard for each vehicle used for the purpose of transporting disabled persons or disabled veterans.

(d) Prior to issuing any disabled person or disabled veteran a distinguishing license plate or placard, the Department of Motor Vehicles may require the applicant to submit a certificate signed by the physician or surgeon substantiating the disability. The disability of any person who has lost, or has lost use of, one or more lower extremities or both hands, or who has significant limitation in the use of lower extremities, may also be certified by a licensed chiropractor. The blindness of any applicant shall be certified by a licensed physician or surgeon who specializes in diseases of the eye or a licensed optometrist.

(e) Any person who is temporarily disabled for a period of less than six months may apply for a placard as prescribed in subdivision (c).

(f) Any disabled person or disabled veteran shall be allowed to park a vehicle displaying a distinguishing disabled person license plate or placard issued by a foreign jurisdiction with the same parking privileges authorized in this code for any vehicle displaying a distinguishing license plate or placard issued by the Department of Motor Vehicles.

(g) The distinguishing license plate or placard shall, upon the death of the disabled person or disabled veteran, be returned to the department within 60 days or upon the expiration of the vehicle

registration, whichever occurs first.

SEC. 3. Section 22511.55 is added to the Vehicle Code, to read:

22511.55. (a) (1) Any disabled person or disabled veteran may apply to the department for the issuance of a distinguishing placard. The placard may be used in lieu of the special identification license plate or plates issued under Section 5007 for parking purposes described in Section 22511.5 when suspended from the rear view mirror or, if there is no rear view mirror, when displayed on the dashboard of a vehicle. It is the intent of the Legislature to encourage the use of these distinguishing placards because they provide law enforcement officers with a more readily recognizable symbol for distinguishing vehicles qualified for the parking privilege. The placard shall be the size and color determined by the department, shall bear the International Symbol of Access adopted pursuant to Section 3 of Public Law 100-641, commonly known as the "wheelchair symbol," shall include instructions for its lawful use, and shall incorporate within those instructions a summary of the penalties for its unlawful use.

(2) The department may establish procedures for the issuance and renewal of the placards. The placards shall have a fixed expiration date of June 30 every two years. Whenever any application for a placard is submitted to the department on or after January 1 of the year of expiration, the fee shall be for the current and subsequent renewal period.

As used in this section, "year" means the period between the inclusive dates of July 1 through June 30.

(3) The fee for an original application or renewal application is six dollars ($6).

(4) Except as provided in paragraph (5), no person is eligible for more than one placard at any time.

(5) Organizations and agencies involved in the transportation of disabled persons or disabled veterans may apply for a placard for each vehicle used for the purpose of transporting disabled persons or disabled veterans.

(b) Prior to issuing any disabled person or disabled veteran a distinguishing placard, the department may require the applicant to submit a certificate signed by the physician or surgeon substantiating the disability. The disability of any person who has lost, or has lost use of, one or more lower extremities or both hands, or who has significant limitation in the use of lower extremities, may also be certified by a licensed chiropractor. The blindness of any applicant shall be certified by a licensed physician or surgeon who specializes in diseases of the eye or a licensed optometrist.

(c) Any person who is temporarily disabled for a period of less than six months may apply for a placard as prescribed in subdivision (a).

(d) The distinguishing placard shall, upon the death of the disabled person or disabled veteran, be returned to the department within 60 days or upon the expiration of the vehicle registration,

whichever occurs first.

SEC. 4. Section 22511.56 is added to the Vehicle Code, to read:

22511.56. Any person using a distinguishing placard issued pursuant to Section 22511.5 for parking as permitted by that section shall, upon request of any peace officer or person authorized to enforce parking laws, ordinances, or regulations, present identification and evidence of the issuance of that placard to that person.

(b) Failure to present the requested identification and evidence of the issuance of that placard shall be a rebuttable presumption that the placard is being misused and that the associated vehicle has been parked in violation of the provisions of Section 22511.5.

(c) In addition to any other applicable penalty for the misuse of a placard, the officer or parking enforcement person may confiscate a placard being used for parking purposes that benefit any person other than the person to whom the placard was issued by the Department of Motor Vehicles. A placard lawfully used by a person transporting a disabled person pursuant to subdivision (b) of Section 4461 shall not be confiscated.

SEC. 5. Section 40000.7 of the Vehicle Code is amended to read:

40000.7. A violation of any of the following provisions is a misdemeanor, and not an infraction:

(a) Section 2416, relating to regulations for emergency vehicles.

(b) Section 2800, relating to failure to obey an officer's lawful order or submit to a lawful inspection.

(c) Section 2800.1, relating to fleeing from a peace officer.

(d) Section 2801, relating to failure to obey a firefighter's lawful order.

(e) Section 2803, relating to unlawful vehicle or load.

(f) Section 2813, relating to stopping for inspection.

(g) Subdivisions (b) and (c) of Section 4461 and subdivisions (b) and (c) of Section 4463, relating to disabled person placards.

(h) Section 4462.5, relating to deceptive or false evidence of vehicle registration.

(i) Section 4463.5, relating to deceptive or facsimile license plates.

(j) Section 5105.5, relating to environmental license plates.

(k) Section 5500, relating to the surrender of registration documents and license plates before dismantling may begin.

(*l*) Section 5753, relating to delivery of certificates of ownership and registration when committed by a dealer or any person while a dealer within the preceding 12 months.

(m) Section 5901, relating to dealers and lessor-retailers giving notice.

(n) Section 5901.1, relating to lessors giving notice and failure to pay fee.

(o) Section 8802, relating to the return of canceled, suspended, or revoked certificates of ownership, registration cards, or license plates, when committed by any person with intent to defraud.

(p) Section 8803, relating to return of canceled, suspended, or

revoked documents and license plates of a dealer, manufacturer, remanufacturer, transporter, dismantler, or salesman.

SEC. 6. (a) The Department of Motor Vehicles shall conduct a study comprising a statistically valid sample which cross-references death records and the records of the department for the issuance and renewal of distinguishing parking placards to disabled persons pursuant to subdivision (c) of Section 22511.5 of the Vehicle Code for purposes of ascertaining the extent of the unauthorized continued use and renewal of those placards subsequent to the death of the disabled persons to whom originally issued.

(b) The department shall report its findings, conclusions, and recommendations to the Legislature on or before July 1, 1992.

SEC. 7. The Department of Motor Vehicles shall design the disabled person and disabled veteran distinguishing placard so as to inhibit the unlawful reproduction in order to ensure the integrity of the disabled person and disabled veteran placard program.

SEC. 8. (a) Section 2 of this act shall become operative only if Assembly Bill 274 is not enacted.

(b) Sections 3 and 4 of this act shall become operative only if Assembly Bill 274 is enacted and becomes operative and relates to vehicle placards for disabled persons.

SEC. 9. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 895

An act to add Section 7186 to, and to repeal and add Chapter 3.9 (commencing with Section 7185) of Part 1 of Division 7 of, the Health and Safety Code, relating to the terminally ill.

[Approved by Governor October 12, 1991 Filed with Secretary of State October 14, 1991]

The people of the State of California do enact as follows:

SECTION 1. Chapter 3.9 (commencing with Section 7185) of Part 1 of Division 7 of the Health and Safety Code is repealed.

SEC. 2. Chapter 3.9 (commencing with Section 7185) is added to Part 1 of Division 7 of the Health and Safety Code, to read:

CHAPTER 3.9. NATURAL DEATH ACT

7185. This act shall be known and may be cited as the Natural Death Act.

7185.5. (a) The Legislature finds that an adult person has the fundamental right to control the decisions relating to the rendering of his or her own medical care, including the decision to have life-sustaining treatment withheld or withdrawn in instances of a terminal condition or permanent unconscious condition.

(b) The Legislature further finds that modern medical technology has made possible the artificial prolongation of human life beyond natural limits.

(c) The Legislature further finds that, in the interest of protecting individual autonomy, such prolongation of the process of dying for a person with a terminal condition or permanent unconscious condition for whom continued medical treatment does not improve the prognosis for recovery may violate patient dignity and cause unnecessary pain and suffering, while providing nothing medically necessary or beneficial to the person.

(d) In recognition of the dignity and privacy that a person has a right to expect, the Legislature hereby declares that the laws of the State of California shall recognize the right of an adult person to make a written declaration instructing his or her physician to withhold or withdraw life-sustaining treatment in the event of a terminal condition or permanent unconscious condition, in the event that the person is unable to make those decisions for himself or herself.

(e) The Legislature further declares that, in the absence of controversy, a court normally is not the proper forum in which to make decisions regarding life-sustaining treatment.

(f) To avoid treatment that is not desired by a person in a terminal condition or permanent unconscious condition, the Legislature declares that this chapter is in the interest of the public health and welfare.

7186. As used in this chapter, unless the context otherwise requires:

(a) "Attending physician" means the physician who has primary responsibility for the treatment and care of the patient.

(b) "Declaration" means a writing executed in accordance with the requirements of subdivision (a) of Section 7186.5.

(c) "Health care provider" means a person who is licensed, certified, or otherwise authorized by the law of this state to administer health care in the ordinary course of business or practice of a profession.

(d) "Life-sustaining treatment" means any medical procedure or intervention that, when administered to a qualified patient, will serve only to prolong the process of dying or an irreversible coma or persistent vegetative state.

(e) "Permanent unconscious condition" means an incurable and

irreversible condition that, within reasonable medical judgment, renders the patient in an irreversible coma or persistent vegetative state.

(f) "Person" means an individual, corporation, business trust, estate, trust, partnership, association, joint venture, government, governmental subdivision or agency, or any other legal or commercial entity.

(g) "Physician" means a physician and surgeon licensed by the Medical Board of California or the Board of Osteopathic Examiners.

(h) "Qualified patient" means a patient 18 or more years of age who has executed a declaration and who has been diagnosed and certified in writing by the attending physician and a second physician who has personally examined the patient to be in a terminal condition or permanent unconscious condition.

(i) "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or a territory or insular possession subject to the jurisdiction of the United States.

(j) "Terminal condition" means an incurable and irreversible condition that, without the administration of life-sustaining treatment, will, within reasonable medical judgment, result in death within a relatively short time.

7186.5. (a) An individual of sound mind and 18 or more years of age may execute at any time a declaration governing the withholding or withdrawal of life-sustaining treatment. The declaration shall be signed by the declarant, or another at the declarant's direction and in the declarant's presence, and witnessed by two individuals at least one of whom may not be a person who is entitled to any portion of the estate of the qualified patient upon his or her death under any will or codicil thereto of the qualified patient existing at the time of execution of the declaration or by operation of law. In addition, a health care provider, an employee of a health care provider, the operator of a community care facility, an employee of an operator of a community care facility, the operator of a residential care facility for the elderly, or an employee of an operator of a residential care facility for the elderly may not be a witness.

(b) A declaration shall substantially contain the following provisions:

DECLARATION

If I should have an incurable and irreversible condition that has been diagnosed by two physicians and that will result in my death within a relatively short time without the administration of life-sustaining treatment or has produced an irreversible coma or persistent vegetative state, and I am no longer able to make decisions regarding my medical treatment, I direct my attending physician, pursuant to the Natural Death Act of California, to withhold or withdraw treatment, including artificially administered nutrition

and hydration, that only prolongs the process of dying or the irreversible coma or persistent vegetative state and is not necessary for my comfort or to alleviate pain.

If I have been diagnosed as pregnant, and that diagnosis is known to my physician, this declaration shall have no force or effect during my pregnancy.

Signed this _____ day of _____, _____.

Signature _____

Address _____

The declarant voluntarily signed this writing in my presence. I am not a health care provider, an employee of a health care provider, the operator of a community care facility, an employee of an operator of a community care facility, the operator of a residential care facility for the elderly, or an employee of an operator of a residential care facility for the elderly.

Witness _____

Address _____

The declarant voluntarily signed this writing in my presence. I am not entitled to any portion of the estate of the declarant upon his or her death under any will or codicil thereto of the declarant now existing or by operation of law. I am not a health care provider, an employee of a health care provider, the operator of a community care facility, an employee of an operator of a community care facility, the operator of a residential care facility for the elderly, or an employee of an operator of a residential care facility for the elderly.

Witness _____

Address _____

(c) A physician or other health care provider who is furnished a copy of the declaration shall make it a part of the declarant's medical record and, if unwilling to comply with the declaration, promptly so advise the declarant.

7187. A declaration shall have no force or effect if the declarant is a patient in a skilled nursing facility as defined in subdivision (c) of Section 1250, or a long-term health care facility as defined in subdivision (a) of Section 1418, at the time the declaration is executed unless one of the two witnesses to the declaration is a patient advocate or ombudsman as may be designated by the State Department of Aging for this purpose pursuant to any other applicable provision of law.

7187.5. A declaration becomes operative when (a) it is communicated to the attending physician and (b) the declarant is diagnosed and certified in writing by the attending physician and a second physician who has personally examined the declarant to be in a terminal condition or permanent unconscious condition and no longer able to make decisions regarding administration of life-sustaining treatment. When the declaration becomes operative,

the attending physician and other health care providers shall act in accordance with its provisions or comply with the transfer requirements of Section 7190.

7188. (a) A declarant may revoke a declaration at any time and in any manner, without regard to the declarant's mental or physical condition. A revocation is effective upon its communication to the attending physician or other health care provider by the declarant or a witness to the revocation.

(b) The attending physician or other health care provider shall make the revocation a part of the declarant's medical record.

7189. Upon determining that the declarant is in a terminal condition or permanent unconscious condition, the attending physician who knows of a declaration shall record the determination and the terms of the declaration in the declarant's medical record and file a copy of the declaration in the record.

7189.5. (a) A qualified patient may make decisions regarding life-sustaining treatment as long as the patient is able to do so.

(b) This chapter does not affect the responsibility of the attending physician or other health care provider to provide treatment for a patient's comfort care or alleviation of pain.

(c) The declaration of a qualified patient known to the attending physician to be pregnant shall not be given effect as long as the patient is pregnant.

7190. An attending physician or other health care provider who is unwilling to comply with this chapter shall take all reasonable steps as promptly as practicable to transfer care of the declarant to another physician or health care provider who is willing to do so.

7190.5. (a) A physician or other health care provider is not subject to civil or criminal liability, or discipline for unprofessional conduct, for giving effect to a declaration in the absence of knowledge of the revocation of a declaration.

(b) A physician or other health care provider, whose action under this chapter is in accord with reasonable medical standards, is not subject to criminal prosecution, civil liability, discipline for unprofessional conduct, administrative sanction, or any other sanction if the physician or health care provider believes in good faith that the action is consistent with this chapter and the desires of the declarant expressed in the declaration.

7191. (a) A physician or other health care provider who willfully fails to transfer the care of a patient in accordance with Section 7190 is guilty of a misdemeanor.

(b) A physician who willfully fails to record a determination of terminal condition or permanent unconscious condition or the terms of a declaration in accordance with Section 7189 is guilty of a misdemeanor.

(c) An individual who willfully conceals, cancels, defaces, or obliterates the declaration of another individual without the declarant's consent or who falsifies or forges a revocation of the declaration of another individual is guilty of a misdemeanor.

(d) An individual who falsifies or forges the declaration of another individual, or willfully conceals or withholds personal knowledge of a revocation under Section 7188, with the intent to cause a withholding or withdrawal of life-sustaining treatment contrary to the wishes of the declarant, and thereby, because of that act, directly causes life-sustaining treatment to be withheld or withdrawn and death to thereby be hastened, shall be subject to prosecution for unlawful homicide as provided in Chapter 1 (commencing with Section 187) of Title 8 of Part 1 of the Penal Code.

(e) A person who requires or prohibits the execution of a declaration as a condition for being insured for, or receiving, health care services is guilty of a misdemeanor.

(f) A person who coerces or fraudulently induces an individual to execute a declaration is guilty of a misdemeanor.

(g) The sanctions provided in this section do not displace any sanction applicable under other law.

7191.5. (a) Death resulting from the withholding or withdrawal of a life-sustaining treatment in accordance with this chapter does not constitute, for any purpose, a suicide or homicide.

(b) The making of a declaration pursuant to Section 7186.5 does not affect in any manner the sale, procurement, or issuance of any policy of life insurance or annuity, nor does it affect, impair, or modify the terms of an existing policy of life insurance or annuity. A policy of life insurance or annuity is not legally impaired or invalidated by the withholding or withdrawal of life-sustaining treatment from an insured, notwithstanding any term to the contrary.

(c) A person may not prohibit or require the execution of a declaration as a condition for being insured for, or receiving, health care services.

(d) This chapter creates no presumption concerning the intention of an individual who has revoked or has not executed a declaration with respect to the use, withholding, or withdrawal of life-sustaining treatment in the event of a terminal condition or permanent unconscious condition.

(e) This chapter does not affect the right of a patient to make decisions regarding use of life-sustaining treatment, so long as the patient is able to do so, or impair or supersede a right or responsibility that a person has to effect the withholding or withdrawal of medical care.

(f) This chapter does not require any physician or other health care provider to take any action contrary to reasonable medical standards.

(g) This chapter does not condone, authorize, or approve mercy killing or assisted suicide or permit any affirmative or deliberate act or omission to end life other than to permit the natural process of dying.

(h) The rights granted by this chapter are in addition to, and not in derogation of, rights under any other statutory or case law.

7192. In the absence of knowledge to the contrary, a physician or other health care provider may presume that a declaration complies with this chapter and is valid.

7192.5. An instrument governing the withholding or withdrawal of life-sustaining treatment executed in another state in compliance with the law of that state or of this state is valid for purposes of this chapter.

7193. A Durable Power of Attorney for Health Care shall prevail over a declaration executed pursuant to this chapter unless expressly provided otherwise in the Durable Power of Attorney for Health Care.

7193.5. The following instruments shall be given effect pursuant to the provisions of this chapter:

(a) An instrument executed before January 1, 1992, that substantially complies with subdivision (a) of Section 7186.5.

(b) An instrument governing the withholding or withdrawal of life-sustaining treatment executed in another state that does not comply with the law of that state but substantially complies with the law of this state.

7194. If any provision of this chapter or its application to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are severable.

7194.5. To the extent that a provision of this chapter conforms to the Uniform Rights of the Terminally Ill Act, that provision shall be applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of this chapter among states enacting it.

SEC. 3. Section 7186 is added to the Health and Safety Code, to read:

7186. As used in this chapter, unless the context otherwise requires:

(a) "Attending physician" means the physician who has primary responsibility for the treatment and care of the patient.

(b) "Declaration" means a writing executed in accordance with the requirements of subdivision (a) of Section 7186.5.

(c) "Health care provider" means a person who is licensed, certified, or otherwise authorized by the law of this state to administer health care in the ordinary course of business or practice of a profession.

(d) "Life-sustaining treatment" means any medical procedure or intervention that, when administered to a qualified patient, will serve only to prolong the process of dying or an irreversible coma or persistent vegetative state.

(e) "Permanent unconscious condition" means an incurable and irreversible condition that, within reasonable medical judgment, renders the patient in an irreversible coma or persistent vegetative state.

(f) "Person" means an individual, corporation, business trust, estate, trust, partnership, association, joint venture, government, governmental subdivision or agency, or any other legal or commercial entity.

(g) "Physician" means a physician and surgeon licensed by the Medical Board of California or the Osteopathic Medical Board of California.

(h) "Qualified patient" means a patient 18 or more years of age who has executed a declaration and who has been diagnosed and certified in writing by the attending physician and a second physician who has personally examined the patient to be in a terminal condition or permanent unconscious condition.

(i) "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or a territory or insular possession subject to the jurisdiction of the United States.

(j) "Terminal condition" means an incurable and irreversible condition that, without the administration of life-sustaining treatment, will, within reasonable medical judgment, result in death within a relatively short time.

SEC. 4. Section 3 of this bill, which adds Section 7186 to the Health and Safety Code, shall become operative only if both this bill and Assembly Bill 1332 are enacted and become effective on January 1, 1992, in which case Section 7186 of the Health and Safety Code, as added by Section 2 of this bill, shall not become operative.

SEC. 5. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for any costs which may be incurred by a local agency or school district because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 896

An act to amend Sections 2433, 2436.5, 2444, 2500, and 2503.5 of the Civil Code, relating to powers of attorney.

[Approved by Governor October 12, 1991 Filed with Secretary of State October 14, 1991]

The people of the State of California do enact as follows:

SECTION 1. Section 2433 of the Civil Code is amended to read:

2433. (a) A printed form of a durable power of attorney for health care that is sold or otherwise distributed in this state for use by a person who does not have the advice of legal counsel shall

provide no other authority than the authority to make health care decisions on behalf of the principal and shall contain, in not less than 10-point boldface type or a reasonable equivalent thereof, the following warning statement:

WARNING TO PERSON EXECUTING THIS DOCUMENT

This is an important legal document. Before executing this document, you should know these important facts:

This document gives the person you designate as your agent (the attorney in fact) the power to make health care decisions for you. Your agent must act consistently with your desires as stated in this document or otherwise made known.

Except as you otherwise specify in this document, this document gives your agent the power to consent to your doctor not giving treatment or stopping treatment necessary to keep you alive.

Notwithstanding this document, you have the right to make medical and other health care decisions for yourself so long as you can give informed consent with respect to the particular decision. In addition, no treatment may be given to you over your objection, and health care necessary to keep you alive may not be stopped or withheld if you object at the time.

This document gives your agent authority to consent, to refuse to consent, or to withdraw consent to any care, treatment, service, or procedure to maintain, diagnose, or treat a physical or mental condition. This power is subject to any statement of your desires and any limitations that you include in this document. You may state in this document any types of treatment that you do not desire. In addition, a court can take away the power of your agent to make health care decisions for you if your agent (1) authorizes anything that is illegal, (2) acts contrary to your known desires, or (3) where your desires are not known, does anything that is clearly contrary to your best interests.

This power will exist for an indefinite period of time unless you limit its duration in this document.

You have the right to revoke the authority of your agent by notifying your agent or your treating doctor, hospital, or other health care provider orally or in writing of the revocation.

Your agent has the right to examine your medical records and to consent to their disclosure unless you limit this right in this document.

Unless you otherwise specify in this document, this document gives your agent the power after you die to (1) authorize an autopsy, (2) donate your body or parts thereof for transplant or therapeutic or educational or scientific purposes, and (3) direct the disposition of your remains.

If there is anything in this document that you do not understand, you should ask a lawyer to explain it to you.

(b) The printed form described in subdivision (a) shall also

include the following notice: "This power of attorney will not be valid for making health care decisions unless it is either (1) signed by two qualified adult witnesses who are personally known to you and who are present when you sign or acknowledge your signature or (2) acknowledged before a notary public in California."

(c) A durable power of attorney prepared for execution by a person resident in this state that permits the attorney in fact to make health care decisions and that is not a printed form shall include one of the following:

(1) The substance of the statements provided for in subdivision (a) in capital letters.

(2) A certificate signed by the principal's lawyer stating: "I am a lawyer authorized to practice law in the state where this power of attorney was executed, and the principal was my client at the time this power of attorney was executed. I have advised my client concerning his or her rights in connection with this power of attorney and the applicable law and the consequences of signing or not signing this power of attorney, and my client, after being so advised, has executed this power of attorney."

(d) If a durable power of attorney includes the certificate provided for in paragraph (2) of subdivision (c) and permits the attorney in fact to make health care decisions for the principal, the applicable law of which the client is to be advised by the lawyer signing the certificate includes, but is not limited to, the matters listed in subdivision (a).

SEC. 2. Section 2436.5 of the Civil Code is amended to read:

2436.5. (a) This section applies only to a durable power of attorney for health care that satisfies one of the following requirements:

(1) The power of attorney was executed after January 1, 1984, but before January 1, 1992.

(2) The power of attorney was executed on or after January 1, 1992, and contains a warning statement that refers to a seven-year limit on its duration.

(b) Unless a shorter period is provided in the durable power of attorney for health care, a durable power of attorney for health care described in subdivision (a) expires seven years after the date of its execution unless at the end of the seven-year period the principal lacks the capacity to make health care decisions for himself or herself, in which case the durable power of attorney for health care continues in effect until the time when the principal regains the capacity to make health care decisions for himself or herself.

SEC. 3. Section 2444 of the Civil Code is amended to read:

2444. (a) Notwithstanding Section 2433, on and after January 1, 1986, a printed form of a durable power of attorney for health care may be sold or otherwise distributed if it complies with Section 2433 as amended by Section 5 of Chapter 312 of the Statutes of 1984, with Section 2433 as amended by Chapter 403 of the Statutes of 1985, or with Section 2433 as in effect at the time of sale or distribution.

However, any printed form of a durable power of attorney for health care printed on or after January 1, 1986, that is sold or otherwise distributed in this state for use by a person who does not have the advice of legal counsel shall comply with Section 2433 as in effect at the time of printing.

(b) Notwithstanding Section 2432, a printed form of a durable power of attorney for health care may be sold or otherwise distributed if it complies with Section 2432 as originally enacted, or with Section 2432 as subsequently amended. However, any printed form of a durable power of attorney for health care printed on or after January 1, 1986, shall comply with the requirements of Section 2432 in effect at the time of printing.

(c) A durable power of attorney for health care executed on or after January 1, 1986, is not invalid if it complies with Section 2432 as originally enacted or as subsequently amended. Subject to Section 2436.5, a durable power of attorney for health care executed on or after January 1, 1986, using a printed form that complied with Section 2433 as amended by Section 5 of Chapter 312 of the Statutes of 1984, or with Section 2433 as amended by Chapter 403 of the Statutes of 1985, is as valid as if it had been executed using a printed form that complied with Section 2433 as thereafter amended.

SEC. 4. Section 2500 of the Civil Code is amended to read:

2500. The use of the following form in the creation of a durable power of attorney for health care under Article 5 (commencing with Section 2430) of Chapter 2 is lawful, and when used, the power of attorney shall be construed in accordance with this chapter and shall be subject to Article 5 (commencing with Section 2430) of Chapter 2; provided, however, that the use of a form previously authorized by this section (at the time it was so authorized) remains valid.

STATUTORY FORM DURABLE POWER OF ATTORNEY FOR HEALTH CARE
(California Civil Code Section 2500)

WARNING TO PERSON EXECUTING THIS DOCUMENT

THIS IS AN IMPORTANT LEGAL DOCUMENT WHICH IS AUTHORIZED BY THE KEENE HEALTH CARE AGENT ACT. BEFORE EXECUTING THIS DOCUMENT, YOU SHOULD KNOW THESE IMPORTANT FACTS:

THIS DOCUMENT GIVES THE PERSON YOU DESIGNATE AS YOUR AGENT (THE ATTORNEY IN FACT) THE POWER TO MAKE HEALTH CARE DECISIONS FOR YOU. YOUR AGENT MUST ACT CONSISTENTLY WITH YOUR DESIRES AS STATED IN THIS DOCUMENT OR OTHERWISE MADE KNOWN.

EXCEPT AS YOU OTHERWISE SPECIFY IN THIS DOCUMENT, THIS DOCUMENT GIVES YOUR AGENT THE POWER TO CONSENT TO YOUR DOCTOR NOT GIVING TREATMENT OR STOPPING TREATMENT NECESSARY TO

KEEP YOU ALIVE.

NOTWITHSTANDING THIS DOCUMENT, YOU HAVE THE RIGHT TO MAKE MEDICAL AND OTHER HEALTH CARE DECISIONS FOR YOURSELF SO LONG AS YOU CAN GIVE INFORMED CONSENT WITH RESPECT TO THE PARTICULAR DECISION. IN ADDITION, NO TREATMENT MAY BE GIVEN TO YOU OVER YOUR OBJECTION AT THE TIME, AND HEALTH CARE NECESSARY TO KEEP YOU ALIVE MAY NOT BE STOPPED OR WITHHELD IF YOU OBJECT AT THE TIME.

THIS DOCUMENT GIVES YOUR AGENT AUTHORITY TO CONSENT, TO REFUSE TO CONSENT, OR TO WITHDRAW CONSENT TO ANY CARE, TREATMENT, SERVICE, OR PROCEDURE TO MAINTAIN, DIAGNOSE, OR TREAT A PHYSICAL OR MENTAL CONDITION. THIS POWER IS SUBJECT TO ANY STATEMENT OF YOUR DESIRES AND ANY LIMITATIONS THAT YOU INCLUDE IN THIS DOCUMENT. YOU MAY STATE IN THIS DOCUMENT ANY TYPES OF TREATMENT THAT YOU DO NOT DESIRE. IN ADDITION, A COURT CAN TAKE AWAY THE POWER OF YOUR AGENT TO MAKE HEALTH CARE DECISIONS FOR YOU IF YOUR AGENT (1) AUTHORIZES ANYTHING THAT IS ILLEGAL, (2) ACTS CONTRARY TO YOUR KNOWN DESIRES, OR (3) WHERE YOUR DESIRES ARE NOT KNOWN, DOES ANYTHING THAT IS CLEARLY CONTRARY TO YOUR BEST INTERESTS.

THE POWERS GIVEN BY THIS DOCUMENT WILL EXIST FOR AN INDEFINITE PERIOD OF TIME UNLESS YOU LIMIT THEIR DURATION IN THIS DOCUMENT.

YOU HAVE THE RIGHT TO REVOKE THE AUTHORITY OF YOUR AGENT BY NOTIFYING YOUR AGENT OR YOUR TREATING DOCTOR, HOSPITAL, OR OTHER HEALTH CARE PROVIDER ORALLY OR IN WRITING OF THE REVOCATION.

YOUR AGENT HAS THE RIGHT TO EXAMINE YOUR MEDICAL RECORDS AND TO CONSENT TO THEIR DISCLOSURE UNLESS YOU LIMIT THIS RIGHT IN THIS DOCUMENT.

UNLESS YOU OTHERWISE SPECIFY IN THIS DOCUMENT, THIS DOCUMENT GIVES YOUR AGENT THE POWER AFTER YOU DIE TO (1) AUTHORIZE AN AUTOPSY, (2) DONATE YOUR BODY OR PARTS THEREOF FOR TRANSPLANT OR THERAPEUTIC OR EDUCATIONAL OR SCIENTIFIC PURPOSES, AND (3) DIRECT THE DISPOSITION OF YOUR REMAINS.

THIS DOCUMENT REVOKES ANY PRIOR DURABLE POWER OF ATTORNEY FOR HEALTH CARE.

YOU SHOULD CAREFULLY READ AND FOLLOW THE WITNESSING PROCEDURE DESCRIBED AT THE END OF THIS FORM. THIS DOCUMENT WILL NOT BE VALID UNLESS YOU COMPLY WITH THE WITNESSING PROCEDURE.

IF THERE IS ANYTHING IN THIS DOCUMENT THAT YOU DO

NOT UNDERSTAND, YOU SHOULD ASK A LAWYER TO EXPLAIN IT TO YOU.

YOUR AGENT MAY NEED THIS DOCUMENT IMMEDIATELY IN CASE OF AN EMERGENCY THAT REQUIRES A DECISION CONCERNING YOUR HEALTH CARE. EITHER KEEP THIS DOCUMENT WHERE IT IS IMMEDIATELY AVAILABLE TO YOUR AGENT AND ALTERNATE AGENTS OR GIVE EACH OF THEM AN EXECUTED COPY OF THIS DOCUMENT. YOU MAY ALSO WANT TO GIVE YOUR DOCTOR AN EXECUTED COPY OF THIS DOCUMENT.

DO NOT USE THIS FORM IF YOU ARE A CONSERVATEE UNDER THE LANTERMAN-PETRIS-SHORT ACT AND YOU WANT TO APPOINT YOUR CONSERVATOR AS YOUR AGENT. YOU CAN DO THAT ONLY IF THE APPOINTMENT DOCUMENT INCLUDES A CERTIFICATE OF YOUR ATTORNEY.

1. DESIGNATION OF HEALTH CARE AGENT. I, _____

(Insert your name and address)

do hereby designate and appoint _____

(Insert name, address, and telephone number of one individual only as your agent to make health care decisions for you None of the following may be designated as your agent: (1) your treating health care provider, (2) a nonrelative employee of your treating health care provider, (3) an operator of a community care facility, (4) a nonrelative employee of an operator of a community care facility, (5) an operator of a residential care facility for the elderly, or (6) a nonrelative employee of an operator of a residential care facility for the elderly)

as my attorney in fact (agent) to make health care decisions for me as authorized in this document. For the purposes of this document, "health care decision" means consent, refusal of consent, or withdrawal of consent to any care, treatment, service, or procedure to maintain, diagnose, or treat an individual's physical or mental condition.

2. CREATION OF DURABLE POWER OF ATTORNEY FOR HEALTH CARE. By this document I intend to create a durable power of attorney for health care under Sections 2430 to 2443, inclusive, of the California Civil Code. This power of attorney is authorized by the Keene Health Care Agent Act and shall be construed in accordance with the provisions of Sections 2500 to 2506, inclusive, of the California Civil Code. This power of attorney shall not be affected by my subsequent incapacity.

3. GENERAL STATEMENT OF AUTHORITY GRANTED. Subject to any limitations in this document, I hereby grant to my agent full power and authority to make health care decisions for me to the same extent that I could make such decisions for myself if I had the capacity to do so. In exercising this authority, my agent shall make health care decisions that are consistent with my desires as

stated in this document or otherwise made known to my agent, including, but not limited to, my desires concerning obtaining or refusing or withdrawing life-prolonging care, treatment, services, and procedures.

(If you want to limit the authority of your agent to make health care decisions for you, you can state the limitations in paragraph 4 ("Statement of Desires, Special Provisions, and Limitations") below You can indicate your desires by including a statement of your desires in the same paragraph.)

4. STATEMENT OF DESIRES, SPECIAL PROVISIONS, AND LIMITATIONS.

(Your agent must make health care decisions that are consistent with your known desires You can, but are not required to, state your desires in the space provided below You should consider whether you want to include a statement of your desires concerning life-prolonging care, treatment, services, and procedures You can also include a statement of your desires concerning other matters relating to your health care. You can also make your desires known to your agent by discussing your desires with your agent or by some other means If there are any types of treatment that you do not want to be used, you should state them in the space below. If you want to limit in any other way the authority given your agent by this document, you should state the limits in the space below If you do not state any limits, your agent will have broad powers to make health care decisions for you, except to the extent that there are limits provided by law.)

In exercising the authority under this durable power of attorney for health care, my agent shall act consistently with my desires as stated below and is subject to the special provisions and limitations stated below:

(a) Statement of desires concerning life-prolonging care, treatment, services, and procedures:

_____

_____

_____

_____

_____

_____

_____

_____

(b) Additional statement of desires, special provisions, and limitations: _____

_____

_____

_____

_____

_____

_____

_____

_____

(You may attach additional pages if you need more space to complete your statement. If you attach additional pages, you must date and sign EACH of the additional pages at the same time you date and sign this document)

5. INSPECTION AND DISCLOSURE OF INFORMATION RELATING TO MY PHYSICAL OR MENTAL HEALTH. Subject to any limitations in this document, my agent has the power and authority to do all of the following:

(a) Request, review, and receive any information, verbal or written, regarding my physical or mental health, including, but not limited to, medical and hospital records.

(b) Execute on my behalf any releases or other documents that may be required in order to obtain this information.

(c) Consent to the disclosure of this information.

(If you want to limit the authority of your agent to receive and disclose information relating to your health, you must state the limitations in paragraph 4 ("Statement of Desires, Special Provisions, and Limitations") above.)

6. SIGNING DOCUMENTS, WAIVERS, AND RELEASES. Where necessary to implement the health care decisions that my agent is authorized by this document to make, my agent has the power and authority to execute on my behalf all of the following:

(a) Documents titled or purporting to be a "Refusal to Permit Treatment" and "Leaving Hospital Against Medical Advice."

(b) Any necessary waiver or release from liability required by a hospital or physician.

7. AUTOPSY; ANATOMICAL GIFTS; DISPOSITION OF REMAINS. Subject to any limitations in this document, my agent has the power and authority to do all of the following:

(a) Authorize an autopsy under Section 7113 of the Health and Safety Code.

(b) Make a disposition of a part or parts of my body under the Uniform Anatomical Gift Act (Chapter 3.5 (commencing with Section 7150) of Part 1 of Division 7 of the Health and Safety Code).

(c) Direct the disposition of my remains under Section 7100 of the Health and Safety Code.

(If you want to limit the authority of your agent to consent to an autopsy, make an anatomical gift, or direct the disposition of your remains, you must state the limitations in paragraph 4 ("Statement of Desires, Special Provisions, and Limitations") above.)

8. DURATION.

(Unless you specify otherwise in the space below, this power of attorney will exist for an indefinite period of time.)

This durable power of attorney for health care expires on ____

(Fill in this space ONLY if you want to limit the duration of this power of attorney.)

9. DESIGNATION OF ALTERNATE AGENTS.

(You are not required to designate any alternate agents but you may do so. Any alternate agent you designate will be able to make the same health care decisions as the agent you designated in paragraph 1, above, in the event that agent is unable or ineligible to act as your agent. If the agent you designated is your spouse, he or she becomes ineligible to act as your agent if your marriage is dissolved.)

If the person designated as my agent in paragraph 1 is not available or becomes ineligible to act as my agent to make a health care decision for me or loses the mental capacity to make health care decisions for me, or if I revoke that person's appointment or authority to act as my agent to make health care decisions for me, then I designate and appoint the following persons to serve as my agent to make health care decisions for me as authorized in this document, such persons to serve in the order listed below:

A. First Alternate Agent _____

_____

(Insert name, address, and telephone number of first alternate agent)

B. Second Alternate Agent _____

_____

(Insert name, address, and telephone number of second alternate agent)

10. NOMINATION OF CONSERVATOR OF PERSON.

(A conservator of the person may be appointed for you if a court decides that one should be appointed. The conservator is responsible for your physical care, which under some circumstances includes making health care decisions for you You are not required to nominate a conservator but you may do so The court will appoint the person you nominate unless that would be contrary to your best interests. You may, but are not required to, nominate as your conservator the same person you named in paragraph 1 as your health care agent You can nominate an individual as your conservator by completing the space below)

If a conservator of the person is to be appointed for me, I nominate the following individual to serve as conservator of the person ____

_____

(Insert name and address of person nominated as conservator of the person)

11. PRIOR DESIGNATIONS REVOKED. I revoke any prior durable power of attorney for health care.

DATE AND SIGNATURE OF PRINCIPAL

(YOU MUST DATE AND SIGN THIS POWER OF ATTORNEY)

I sign my name to this Statutory Form Durable Power of Attorney for Health Care on _____ at
(Date)

_____, _____.
(City) (State)

_____
(You sign here)

(THIS POWER OF ATTORNEY WILL NOT BE VALID UNLESS IT IS SIGNED BY TWO QUALIFIED WITNESSES WHO ARE PRESENT WHEN YOU SIGN OR ACKNOWLEDGE YOUR SIGNATURE IF YOU HAVE ATTACHED ANY ADDITIONAL PAGES TO THIS FORM, YOU MUST DATE AND SIGN EACH OF THE ADDITIONAL PAGES AT THE SAME TIME YOU DATE AND SIGN THIS

POWER OF ATTORNEY)

STATEMENT OF WITNESSES

(This document must be witnessed by two qualified adult witnesses None of the following may be used as a witness: (1) a person you designate as your agent or alternate agent, (2) a health care provider, (3) an employee of a health care provider, (4) the operator of a community care facility, (5) an employee of an operator of a community care facility, (6) the operator of a residential care facility for the elderly, or (7) an employee of an operator of a residential care facility for the elderly At least one of the witnesses must make the additional declaration set out following the place where the witnesses sign.)

(READ CAREFULLY BEFORE SIGNING. You can sign as a witness only if you personally know the principal or the identity of the principal is proved to you by convincing evidence.)

(To have convincing evidence of the identity of the principal, you must be presented with and reasonably rely on any one or more of the following:

(1) An identification card or driver's license issued by the California Department of Motor Vehicles that is current or has been issued within five years

(2) A passport issued by the Department of State of the United States that is current or has been issued within five years

(3) Any of the following documents if the document is current or has been issued within five years and contains a photograph and description of the person named on it, is signed by the person, and bears a serial or other identifying number

(a) A passport issued by a foreign government that has been stamped by the United States Immigration and Naturalization Service

(b) A driver's license issued by a state other than California or by a Canadian or Mexican public agency authorized to issue drivers' licenses.

(c) An identification card issued by a state other than California

(d) An identification card issued by any branch of the armed forces of the United States

(4) If the principal is a patient in a skilled nursing facility, a witness who is a patient advocate or ombudsman may rely upon the representations of the administrator or staff of the skilled nursing facility, or of family members, as convincing evidence of the identity of the principal if the patient advocate or ombudsman believes that the representations provide a reasonable basis for determining the identity of the principal.)

(Other kinds of proof of identity are not allowed.)

I declare under penalty of perjury under the laws of California that the person who signed or acknowledged this document is personally known to me (or proved to me on the basis of convincing evidence) to be the principal, that the principal signed or acknowledged this durable power of attorney in my presence, that the principal appears to be of sound mind and under no duress, fraud, or undue influence, that I am not the person appointed as attorney in fact by this document, and that I am not a health care provider, an employee of a health care provider, the operator of a community care facility, an employee of an operator of a community care facility, the operator of a residential care facility for the elderly, nor an employee of an

operator of a residential care facility for the elderly.

Signature: _____ Residence Address: _____
Print Name: _____ _____
Date: _____ _____

Signature: _____ Residence Address: _____
Print Name: _____ _____
Date: _____ _____

(AT LEAST ONE OF THE ABOVE WITNESSES MUST ALSO SIGN THE FOLLOWING DECLARATION.)

I further declare under penalty of perjury under the laws of California that I am not related to the principal by blood, marriage, or adoption, and, to the best of my knowledge, I am not entitled to any part of the estate of the principal upon the death of the principal under a will now existing or by operation of law.

Signature: _____

Signature: _____

STATEMENT OF PATIENT ADVOCATE OR OMBUDSMAN

(If you are a patient in a skilled nursing facility, one of the witnesses must be a patient advocate or ombudsman The following statement is required only if you are a patient in a skilled nursing facility—a health care facility that provides the following basic services: skilled nursing care and supportive care to patients whose primary need is for availability of skilled nursing care on an extended basis. The patient advocate or ombudsman must sign both parts of the "Statement of Witnesses" above AND must also sign the following statement)

I further declare under penalty of perjury under the laws of California that I am a patient advocate or ombudsman as designated by the State Department of Aging and that I am serving as a witness as required by subdivision (f) of Section 2432 of the Civil Code.

Signature: _____

SEC. 5. Section 2503.5 of the Civil Code is amended to read:

2503.5. (a) Subject to Section 2436.5, a statutory form durable power of attorney for health care executed on or after January 1, 1986, using a form that complied with Section 2500 as originally enacted, or as amended by Chapter 403 of the Statutes of 1985, or as amended by Chapter 1543 of the Statutes of 1988, or as amended by Chapter 331 of the Statutes of 1990, is as valid as if it had been executed using a form that complied with the requirements of Section 2500 as in effect at the time of execution.

(b) Notwithstanding Section 2501, a statutory form durable power

of attorney for health care executed on or after January 1, 1986, is not invalid if it contains the warning using the language set forth in Section 2500 as originally enacted, or as amended by Chapter 403 of the Statutes of 1985, or as amended by Chapter 1543 of the Statutes of 1988, or as amended by Chapter 331 of the Statutes of 1990, instead of the warning using the language set forth in that section as in effect at the time of execution.

(c) For the purposes of subdivision (c) of Section 2503, on and after January 1, 1986, a printed statutory form durable power of attorney for health care may be sold or otherwise distributed if it contains the exact wording of the form set out in Section 2500 as originally enacted, or the exact wording of the form set out in Section 2500 as amended by Chapter 403 of the Statutes of 1985, or as amended by Chapter 1543 of the Statutes of 1988, or as amended by Chapter 331 of the Statutes of 1990, including the warning and instructions, and nothing else; but any printed statutory form durable power of attorney for health care printed on or after January 1, 1992, that is sold or otherwise distributed in this state for use by a person who does not have the advice of legal counsel shall contain the exact wording of the form set out in Section 2500 in effect at the time of printing, including the warning and instructions, and nothing else.

CHAPTER 897

An act to amend Section 214.2 of, and to add Section 532.2 to, the Revenue and Taxation Code, relating to property taxation.

[Approved by Governor October 12, 1991 Filed with Secretary of State October 14, 1991.]

The people of the State of California do enact as follows:

SECTION 1. Section 214.2 of the Revenue and Taxation Code is amended to read:

214.2. (a) As used in Section 214.1, "facilities in the course of construction" shall include the demolition or razing of a building with the intent to replace it with facilities to be used exclusively for religious, hospital, or charitable purposes.

(b) As used in Section 214.1, "facilities in the course of construction" shall include definite onsite physical activity connected with construction or rehabilitation of a new or existing building, to be used exclusively for religious, hospital, or charitable purposes. Activity as described in the preceding sentence having been commenced and not yet finished, unless abandoned, shall establish that a building is "under construction" for the purposes of Section 5 of Article XIII of the California Constitution. Construction shall not be considered "abandoned" due to reasonable causes and

circumstances beyond the assessee's control, that occur notwithstanding the exercise of ordinary care and the absence of willful neglect.

SEC. 2. Section 532.2 is added to the Revenue and Taxation Code, to read:

532.2. Notwithstanding Section 532, the assessor may assess as escaped property any property for which a welfare exemption was granted while that property was "in the course of construction," as defined in Section 214.2, if either of the following occurs:

(a) Construction is abandoned.

(b) Upon completion of the construction, the property is used other than exclusively for religious, hospital, or charitable purposes.

SEC. 3. The Legislature finds and declares that the amendments to Section 214.2 of the Revenue and Taxation Code made by this act do not constitute a change in, but are declaratory of, existing law.

SEC. 4. Notwithstanding Section 2229 of the Revenue and Taxation Code, the requirements of that section relating to any exemption of property for more than five years or for more than 75 percent of the value thereof, shall not apply to any exemption made by this act. In addition, no appropriation is made by this act and the state shall not reimburse any local agency for any property tax revenues lost by it pursuant to this act.

CHAPTER 898

An act to amend Section 1346 of, and to add Section 1374.15 to, the Health and Safety Code, relating to health care service plans.

[Approved by Governor October 12, 1991. Filed with Secretary of State October 14, 1991]

The people of the State of California do enact as follows:

SECTION 1. Section 1346 of the Health and Safety Code is amended to read:

1346. The commissioner shall administer and enforce this chapter.

The commissioner shall have the following powers:

(a) Recommend and propose the enactment of any legislation necessary to protect and promote the interests of the public, subscribers, enrollees, and providers of health care services in health care service plans in the State of California.

(b) Provide information to federal and state legislative committees and executive agencies concerning plans.

(c) Assist, advise, and cooperate with federal, state, and local agencies and officials to protect and promote the interests of plans, subscribers, enrollees, and the public.

(d) Study, investigate, research, and analyze matters affecting the

interests of plans, subscribers, enrollees, and the public.

(e) Hold public hearings, subpoena witnesses, take testimony, compel the production of books, papers, documents, and other evidence, and call upon other state agencies for information to implement the purposes, and enforce this chapter.

(f) Conduct audits and examinations of the books and records of plans and other persons subject to this chapter, and may prescribe by rule or order the following:

(1) The form and contents of financial statements required under this chapter.

(2) The circumstances under which consolidated statements shall be filed.

(3) The circumstances under which financial statements shall be audited by independent certified public accountants or public accountants.

(g) Conduct necessary onsite medical surveys of the health delivery system of each plan.

(h) Propose, develop, conduct, and assist in educational programs for the public, subscribers, enrollees, and licensees.

(i) Promote and establish standards of ethical conduct for the administration of plans and undertake activities to encourage responsibility in the promotion and sale of plan contracts and the enrollment of subscribers or enrollees in the plans.

(j) Advise the Governor on all matters affecting the interests of plans, subscribers, enrollees, and the public.

(k) Determine that investments of a plan's assets necessary to meet the requirements of Section 1376 are acceptable. For those purposes, reinvestment in the plan and investment in any obligations set forth in Article 3 (commencing with Section 1170) of, and Article 4 (commencing with Section 1190) of, Chapter 2 of Part 2 of Division 1 of the Insurance Code shall be considered acceptable. All other assets shall be invested in a prudent manner.

SEC. 2. Section 1374.15 is added to the Health and Safety Code, to read:

1374.15. Any health care service plan shall, upon request by any public entity or political subdivision of the state with whom it has entered into a contract, disclose within a reasonable time period, not to exceed 60 calendar days, the method and data used in calculating the rates of payment for the contract.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 899

An act to amend Sections 11347.1 and 11347.3 of, and to add Section 11342.5 to, the Government Code, relating to administrative regulations, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 13, 1991 Filed with Secretary of State October 14, 1991.]

The people of the State of California do enact as follows:

SECTION 1. Section 11342.5 is added to the Government Code, to read:

11342.5. Any action by the Department of Finance to adopt and update, as necessary, instructions to any state or local agency for the preparation, development, or administration of the state budget, including any instructions included in the State Administrative Manual, shall be exempt from this chapter.

SEC. 2. Section 11347.1 of the Government Code is amended to read:

11347.1. (a) Upon receipt of a petition requesting the adoption, amendment, or repeal of a regulation pursuant to this article, a state agency shall notify the petitioner in writing of the receipt and shall within 30 days deny the petition indicating why the agency has reached its decision on the merits of the petition in writing or schedule the matter for public hearing in accordance with the notice and hearing requirements of this article.

(b) A state agency may grant or deny such a petition in part, and may grant any other relief or take any other action as it may determine to be warranted by the petition and shall notify the petitioner in writing of this action.

(c) Any interested person may request a reconsideration of any part or all of a decision of any agency on any petition submitted. The request shall be submitted in accordance with Section 11347 and include the reason or reasons why an agency should reconsider its previous decision no later than 60 days after the date of the decision involved. The agency's reconsideration of any matter relating to a petition shall be subject to the provisions of subdivision (a).

(d) Any decision of a state agency denying in whole or in part or granting in whole or in part a petition requesting the adoption, amendment, or repeal of a regulation pursuant to this article shall be in writing and shall be transmitted to the Office of Administrative Law for publication in the California Regulatory Notice Register at the earliest practicable date. The decision shall identify the agency, the party submitting the petition, the provisions of the California Code of Regulations requested to be affected, reference to authority to take the action requested, the reasons supporting the agency determination, an agency contact person, and the right of interested

persons to obtain a copy of the petition from the agency.

SEC. 3. Section 11347.3 of the Government Code is amended to read:

11347.3. (a) Every agency shall maintain a file of each rulemaking which shall be deemed to be the record for that rulemaking proceeding. The file shall include:

(1) Copies of any petitions received from interested persons proposing the adoption, amendment or repeal of the regulation, and a copy of any decision provided for by subdivision (d) of Section 11347.1, which grants a petition in whole or in part.

(2) All published notices of proposed adoption, amendment, or repeal of the regulation, and an updated informative digest, the initial statement of reasons, and the final statement of reasons.

(3) The determination, together with the supporting data required by paragraph (5) of subdivision (a) of Section 11346.5.

(4) The determination, together with the supporting data required by subdivision (b) of Section 11346.53.

(5) The estimate, together with the supporting data and calculations, required by paragraph (6) of subdivision (a) of Section 11346.5.

(6) All data and other factual information, any studies or reports, and written comments submitted to the agency in connection with the adoption, amendment, or repeal of the regulation.

(7) All data and other factual information, technical, theoretical, and empirical studies or reports, if any, on which the agency is relying in the adoption, amendment, or repeal of a regulation, including any cost impact estimates as required by Section 11346.53.

(8) A transcript, recording or minutes of any public hearing connected with the adoption, amendment, or repeal of the regulation.

(9) The date on which the agency made available to the public for 15 days prior to the adoption, amendment, or repeal of the regulation the full text as required by subdivision (c) of Section 11346.8 if the agency made changes to the regulation noticed to the public.

(10) The text of regulations as originally proposed and the modified text of regulations, if any, that were made available to the public prior to adoption.

(11) Any other information, statement, report or data which the agency is required by law to consider or prepare in connection with the adoption, amendment, or repeal of a regulation.

(12) An index or table of contents which identifies each item contained in the rulemaking file. The index or table of contents shall include an affidavit or a declaration under penalty of perjury in the form specified by Section 2015.5 of the Code of Civil Procedure by the agency official who has compiled the rulemaking file, specifying the date upon which the record was closed, and that the file or the copy, if submitted, is complete.

(b) Every agency shall submit to the office with the adopted regulation, the rulemaking file or a complete copy of the rulemaking

file.

(c) The agency file of the rulemaking proceeding shall be made available by the agency to the public, and to the courts in connection with the review of the regulation.

SEC. 4. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to ensure the availability of necessary information on decisions on petitions proposing the adoption, amendment, or repeal of state regulations, and to ensure the efficient preparation of the state budget, at the earliest possible time, it is necessary that this act go into immediate effect.

CHAPTER 900

An act to amend Sections 43000 and 43000.5 of the Health and Safety Code, and to add Sections 25000.5, 25309.1, 25324, and 25325 to the Public Resources Code, relating to fuel, and making an appropriation therefor.

[Approved by Governor October 12, 1991. Filed with Secretary of State October 14, 1991]

The people of the State of California do enact as follows:

SECTION 1. Section 43000 of the Health and Safety Code is amended to read:

43000. The Legislature finds and declares as follows:

(a) The emission of air pollutants from motor vehicles is the primary cause of air pollution in many parts of the state.

(b) The control and elimination of those air pollutants is of prime importance for the protection and preservation of the public health and well-being, and for the prevention of irritation to the senses, interference with visibility, and damage to vegetation and property.

(c) The state has a responsibility to establish uniform procedures for compliance with standards which control or eliminate those air pollutants.

(d) Vehicle emission standards applied to new motor vehicles, and to used motor vehicles equipped with motor vehicle pollution control devices, are standards with which all motor vehicles shall comply.

(e) Dependence on petroleum based fuels in motor vehicles not only contributes to substantial degradation of air quality and risk to public health, but also impedes the state's progress toward the petroleum use reduction goal prescribed in Section 25000.5 of the Public Resources Code.

SEC. 2. Section 43000.5 of the Health and Safety Code is amended

to read:

43000.5. The Legislature further finds and declares as follows:

(a) Despite the significant reductions in vehicle emissions which have been achieved in recent years, continued growth in population and vehicle miles traveled throughout California have the potential not only to prevent attainment of the state standards, but in some cases, to result in worsening of air quality.

(b) The attainment and maintenance of the state air quality standards will necessitate the achievement of substantial reductions in new vehicle emissions and substantial improvements in the durability of vehicle emissions systems.

(c) The burden for achieving needed reductions in vehicle emissions should be distributed equitably among various classes of vehicles, including both on- and off-road vehicles, light-duty cars and trucks, and heavy-duty vehicles, to accomplish improvements in both the emissions level and in-use performance and durability of all new motor vehicles.

(d) The state board should take immediate action to implement both short- and long-range programs of across-the-board reductions in vehicle emissions and smoke, including smoke from heavy-duty diesel vehicles, which can be relied upon by the districts in the preparation of their attainment plans or plan revisions pursuant to Sections 40911, 40902, and 40925.

(e) In order to attain the state and federal standards as expeditiously and equitably as possible, it is necessary for the authority of the state board to be clarified and expanded with respect to the control of motor vehicles and motor vehicle fuels.

SEC. 3. Section 25000.5 is added to the Public Resources Code, to read:

25000.5. (a) The Legislature finds and declares that overdependence on the production, marketing, and consumption of petroleum based fuels as an energy resource in the transportation sector is a threat to the energy security of the state due to continuing market and supply uncertainties. In addition, petroleum use as an energy resource contributes substantially to the following public health and environmental problems: air pollution, acid rain, global warming, and the degradation of California's marine environment and fisheries.

(b) Therefore, it is the policy of this state to fully evaluate the economic and environmental costs of petroleum use, and the economic and environmental costs of other transportation fuels, including the costs and values of environmental externalities, and to establish a state transportation energy policy that results in the least environmental and economic cost to the state. In pursuing the "least environmental and economic cost" strategy, it is the policy of the state to exploit all practicable and cost-effective conservation and improvements in the efficiency of energy use and distribution, and to achieve energy security, diversity of supply sources, and competitiveness of transportation energy markets based on the least

environmental and economic cost.

(c) For the purposes of this section, "petroleum based fuels" means fuels derived from liquid unrefined crude oil, including natural gas liquids, liquified petroleum gas, or the energy fraction of methyltertiarybutylether (MTBE) or other ethers that is not attributed to natural gas.

SEC. 4. Section 25309.1 is added to the Public Resources Code, to read:

25309.1. Commencing January 1, 1992, as part of the biennial report required by Section 25309, the commission shall include a forecast of statewide and regional transportation energy demand for a 5-, 12-, and 20-year planning horizon for the following scenarios:

(a) A forecast of energy use reasonably expected to occur through currently planned and adopted energy efficiency, conservation, and alternative fuels programs.

(b) A forecast of energy use under a maximum petroleum use reduction scenario, assuring achievement of maximum feasible transportation energy efficiency and conservation measures and maximum feasible fuel diversity.

(c) A forecast of energy use under a "least environmental and economic cost" scenario, including the costs and values of externalities. The least environmental and economic cost scenario shall, in addition to conventional economic data, utilize assessments of costs and values associated with environmental quality, life-cycle energy and environmental costs, energy diversity, and energy security, and to the extent feasible integrate the costs and values associated with the following:

(1) Air pollution, water pollution, global warming, and other adverse environmental impacts of transportation energy exploration, development, production, and use.

(2) Future price changes in energy resources and supply disruptions, including the effects of price changes and supply disruptions on business and commerce and public welfare.

(3) Considerations of energy security and preparedness, including the costs of maintaining access to foreign energy supplies.

(4) Maintaining state and federal strategic energy reserves.

SEC. 5. Section 25324 is added to the Public Resources Code, to read:

25324. The commission, in consultation with the State Air Resources Board, the California Transportation Commission, the Office of Planning and Research, air pollution control districts and air quality management districts, affected industries, and the public, shall identify and evaluate energy programs which might be used to achieve the forecast of energy use under a least environmental and economic cost scenario, as described in subdivision (c) of Section 25309.1. The programs shall include, but not be limited to, the following:

(a) Conservation programs.

(b) Economic and regulatory incentives, including congestion

charges.

(c) Accelerated introduction of nonpetroleum based vehicles and fueling facilities, and accelerated sale of nonpetroleum based fuels.

(d) Transportation control measures, including energy efficient integrated transportation and land use planning.

SEC. 6. Section 25325 is added to the Public Resources Code, to read:

25325. Based on the information and evaluation developed in Sections 25309.1 and 25324, and consultation with affected public and private entities, the commission shall report the results of the evaluation to the Legislature, including long-range and interim targets for transportation energy use reduction and fuel diversity, which shall be designed to achieve the least environmental and economic cost forecast required pursuant to subdivision (c) of Section 25309.1.

SEC. 7. Notwithstanding Sections 13340 and 16361 of the Government Code, and to the extent permitted by federal law, the sum of two hundred sixty thousand dollars ($260,000) of the money in the Federal Trust Fund, which is created by Section 16360 of the Government Code, received by the state from federal oil overcharge funds in the Petroleum Violation Escrow Account, as defined by Section 155 of the Further Continuing Appropriations Act of 1983 (P.L. 97-377) or other federal law, and from federal oil overcharge funds available pursuant to court judgments of federal agency orders, is hereby appropriated to the State Energy Resources Conservation and Development Commission, to support implementation of this act.

SEC. 8. The funds appropriated by this act shall be disbursed by the Controller, subject to approval by the Director of Finance as to which court judgment or federal agency order is the proper source of those funds.

CHAPTER 901

An act to add Article 2 (commencing with Section 8899.18) to Chapter 14 of Division 1 of Title 2 of the Government Code, to amend Section 5002 of the Insurance Code, relating to seismic safety, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 12, 1991 Filed with Secretary of State October 14, 1991]

The people of the State of California do enact as follows:

SECTION 1. Article 2 (commencing with Section 8899.18) is added to Chapter 14 of Division 1 of Title 2 of the Government Code, to read:

Article 2. Alfred E. Alquist Earthquake Act

8899.18. This article shall be known and may be cited as the Alfred E. Alquist Earthquake Act.

8899.19. The Legislature finds and declares all of the following:

(a) The Legislature unanimously passed Senate Bill 1835, which was enacted into law as Chapter 782 of the Statutes of 1990, for the purpose of addressing personal injury, death, and property damage of impending earthquakes.

(b) It is critical for the health and safety of Californians that funding should be made available as quickly as possible for the implementation of Chapter 782 of the Statutes of 1990.

(c) The grant award authorized by Section 8899.21 and funded pursuant to this article is not a gift of public funds, but rather a collaborative project between the state and the grant award recipient to commercialize technologies that will predict earthquakes or mitigate their impact for the purpose of protecting the health and welfare of the citizens of the state.

8899.20. The definitions contained in this section shall govern the construction of this article, unless the context requires otherwise:

(a) "EREC" means the Earthquake Research Evaluation Conference established pursuant to Section 8899.11.

(b) "Fund" means the Alfred E. Alquist Earthquake Fund.

8899.21. (a) For the purpose of expediting the development of emerging technologies and encouraging rapid technology transfer, not more than five grant awards shall be made for the 1991–92 fiscal year to commercialize technologies that will predict earthquakes or mitigate their impact. Grant awards may be made to public, nonprofit, not for profit, or private entities.

(b) The Office of Competitive Technology in the Department of Commerce shall implement this section with the advice of the Division of Mines and Geology in the Department of Conservation and the Seismic Safety Commission. The competitive technology advisory committee shall also advise the Office of Competitive Technology in implementing this section.

(c) Within 90 days of the effective date of this section, the Office of Competitive Technology shall issue a solicitation, pursuant to regulation, inviting project proposals to be submitted no later than 120 days from the date of the request for proposal of solicitation.

(d) A project shall at least do the following:

(1) Lead to the commercialization of technologies that will predict earthquakes or mitigate their impact.

(2) Include significant matching contributions from a California company.

(3) Meet any other requirements that the department determines are consistent with the purposes of this section.

(e) The Office of Competitive Technology shall evaluate project proposals which shall at least include a peer review and an oral review. The Director of Commerce upon recommendation from the

Office of Competitive Technology, shall select projects for funding which best achieve the purposes of this section.

(f) A grantee shall submit quarterly progress reports and participate in oral project reviews during the term of the grant.

(g) Projects shall be eligible for additional grant funds only upon successful project performance and the availability of additional earthquake research development program funds.

(h) The Department of Commerce may adopt regulations to implement the grant program authorized by this section. The Department of Commerce shall adopt these regulations as emergency regulations in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1, and for purposes of that chapter, including Section 11349.6, the adoption of the regulations shall be considered by the Office of Administrative Law to be necessary for the immediate preservation of the public peace, health and safety, and general welfare. Notwithstanding subdivision (e) of Section 11346.1, the regulations shall be repealed within 180 days after their effective date, unless the Department of Commerce complies with Chapter 3.5 (commencing with Section 11340) of Part 1 as provided in subdivision (e) of Section 11346.1. Upon issuing the request for proposal, the office shall publish this fact along with the deadline for grant proposals in the newspapers with the greatest circulation in the major cities in the state, as determined by the office. Upon issuing the request for proposal, the office shall also transmit this information to the Secretary of the Senate and the Chief Clerk of the Assembly for publication in the journals of each house of the Legislature. The request for proposal shall contain a clear description of the criteria to be used to select the projects which are to receive funding pursuant to this chapter.

8899.23. (a) There is hereby created the Alfred E. Alquist Earthquake Fund, which is a special fund in the State Treasury.

(b) Notwithstanding Section 13340, money in the fund established by subdivision (a) is continuously appropriated, without regard to fiscal years, for the purposes of this chapter.

8899.24. (a) The Controller shall transfer an amount not to exceed seven hundred fifty thousand dollars ($750,000) from the Pooled Money Investment Account as a loan to the fund for the purpose of implementing this chapter.

(b) (1) The money lent pursuant to subdivision (a) shall be repaid from the California Residential Earthquake Recovery Fund, with interest calculated at the rate earned by the Pooled Money Investment Fund.

(2) The amount of the loan made pursuant to subdivision (a) shall be repaid in full with interest on or before the earlier of either of the following:

(A) January 1, 1997.

(B) When the balance of the California Residential Earthquake Recovery Fund reaches one billion five hundred million dollars ($1,500,000,000).

8899.25. The Controller shall distribute twenty-five thousand dollars ($25,000) from the fund to the Seismic Safety Commission for the purpose of conducting the EREC pursuant to Sections 8899.12, 8899.13, 8899.14, and 8899.15.

8899.26. The Controller, on the effective date of this section, shall transfer seven hundred twenty-five thousand dollars ($725,000) from the fund to the Competitive Technology Fund to administer and provide grant awards pursuant to Section 8899.21. From the amount transferred, an amount not more than 15 percent of the total of the transferred amount and matching contributions may be spent on support.

SEC. 2. Section 5002 of the Insurance Code is amended to read:

5002. (a) There is hereby created the California Residential Earthquake Recovery Fund, which is a special fund which, notwithstanding Section 13340 of the Government Code, is continuously appropriated for the purposes of this chapter. The fund shall be administered by the commissioner.

(b) The purpose of the fund shall be to provide payments for structural damage caused by earthquakes to California residential real property.

(c) Money in the fund shall be used exclusively for the following purposes:

(1) Payment for structural damages to residential property caused by earthquakes as provided by this chapter.

(2) Payment of expenses of administering this chapter. Expenses of administering this chapter shall be paid only from the fund.

(3) Payment of expenses of insurers for other persons or entities incurred in connection with the adjustment of claims under this chapter.

(4) The purchase of reinsurance where authorized by this chapter.

(5) The expenses of issuance and the repayment of revenue bonds that may be authorized for the purposes of this chapter.

(6) The reduction of earthquake hazards by retrofitting dwellings pursuant to Section 5002.5.

(7) Funding for purposes of the Alfred E. Alquist Earthquake Act (Art. 2 (commencing with Sec. 8899.17), Ch. 14, Div. 1, Title 2, Gov. C.).

(d) Money in the fund shall be invested and reinvested as part of the Pooled Money Investment Account, however, the fund and its interest shall not be available for transfers pursuant to Section 16310 of the Government Code. Nothing in this subdivision shall be construed as preventing the making of grants pursuant to Article 2 (commencing with Section 8899.18) of Chapter 14 of Division 1 of Title 2 of the Government Code.

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to provide the resources to achieve seismic safety through implementation of the use of current and emerging technologies and to fill gaps in scientific and engineering capabilities needed to further mitigate earthquake hazards at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 902

An act to add Section 6254.11 to the Government Code, and to add Section 42303.2 to the Health and Safety Code, relating to air pollution.

[Approved by Governor October 12, 1991. Filed with Secretary of State October 14, 1991]

The people of the State of California do enact as follows:

SECTION 1. Section 6254.11 is added to the Government Code, to read:

6254.11. Nothing in this chapter requires the disclosure of records that relate to volatile organic compounds or chemical substances information received or compiled by an air pollution control officer pursuant to Section 42303.2 of the Health and Safety Code.

SEC. 2. Section 42303.2 is added to the Health and Safety Code, to read:

42303.2. (a) An air pollution control officer, at any time, may, for the purpose of permitting or enforcement actions, require from the in-state or out-of-state supplier, wholesaler, or distributor of volatile organic compounds or chemical substances the use of which results in air contaminants subject to regulation or enforcement by the district, customer lists and chemical types and quantities of those compounds and substances as specified by the district pursuant to subdivision (b) which are purchased by, or on order for, a specified source operator within the district.

The supplier, wholesaler, or distributor shall disclose the information required pursuant to this section to the district.

(b) Prior to implementing subdivision (a), an air pollution control officer shall prepare a comprehensive list of volatile organic compounds or chemical substances the use of which results in the emission of air contaminants which are subject to regulation or enforcement by the district.

(c) (1) Any officer or employee of the district or of a district contractor, or former officer or employee, who, by virtue of that employment or official position has possession of, or has access to, any confidential information that is a trade secret, customer list, or supplier name acquired pursuant to this section, and who, knowing that the disclosure of the information to the general public is prohibited by this section, knowingly and willfully discloses the

information in any manner to any person not entitled to receive it, is guilty of a misdemeanor punishable by a six month county jail term and a fine not to exceed one thousand dollars ($1,000).

(2) Any officer or employee of the district or of a district contractor, or former officer or employee, who, by virtue of that employment or official position has possession of, or has access to, any other confidential information acquired pursuant to this section, and who, knowing that the disclosure of the information to the general public is prohibited by this section, and who, knowing that the disclosure of the information to the general public is prohibited by this section, knowingly and willfully discloses the information in any manner to any person not entitled to receive it, is guilty of a misdemeanor punishable by a 10-day county jail term or a fine not to exceed five hundred dollars ($500).

(d) The penalties provided in subdivision (c) shall be in addition to any existing civil penalties and remedies available under the law.

(e) Except for the purposes of any enforcement or permit action, and except for information obtained from an independent source, all information received or compiled by an air pollution control officer from a supplier, wholesaler, or distributor pursuant to subdivision (a) is confidential for the purposes of Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code, and shall not be disclosed.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 903

An act to add Part 2.75 (commencing with Section 10750) to Division 6 of the Water Code, relating to water.

[Approved by Governor October 12, 1991. Filed with Secretary of State October 14, 1991]

The people of the State of California do enact as follows:

SECTION 1. Part 2.75 (commencing with Section 10750) is added to Division 6 of the Water Code, to read:

PART 2.75. GROUNDWATER RESOURCES

10750. This part applies only to local agencies whose jurisdiction includes the following groundwater basins subject to "critical conditions of groundwater overdraft" as identified by the Department of Water Resources' Bulletin 118-80, p. 3, as revised December 24, 1982: Pajaro Valley Basin; Cuyama Valley Basin; Ventura Central Basin; Eastern San Joaquin County Basin; Chowchilla Basin; Madera Basin; Kings Basin; Kaweah Basin; Tulare Lake Basin; Tule Basin; and Kern County Basin.

10751. (a) As used in this part, "local agency" means any city, county, district, agency, or other political subdivision of the state for the local performance of governmental or proprietary functions within limited boundaries.

(b) As used in this part, "groundwater" and "groundwater resources" do not include those subsurface waters incidentally produced in connection with, or as a result of, natural resource extraction activities when the disposal of those subsurface waters is regulated by state or federal law.

10752. Any local agency which is authorized by law to provide water service and is exercising that authority may, by ordinance, or by resolution if the local agency is not authorized to act by ordinance, establish programs for the management of groundwater resources within the area in which that water service is being provided.

10753. Prior to the adoption of a groundwater management program, the governing board of the local agency shall hold a public hearing, after publication of notice pursuant to Section 6066 of the Government Code, on the proposed groundwater management program. At the hearing, the board may alter the program or require further study on the program and continue the hearing. At the conclusion of the hearing, the board may adopt a resolution of intention to adopt and implement the program.

10754. After the conclusion of the hearing, and if the governing board of the local agency adopts a resolution of intention, copies of the groundwater management program shall be circulated to each owner of a water extraction, storage, or distribution facility within the local agency. Upon written request, any other interested person shall be provided with a copy of the program.

10755. After the adoption of a resolution of intention, the governing board of the local agency shall hold a second hearing and shall consider protests to the implementation of the program. Any time prior to the conclusion of the hearing, any landowner within the local agency may file a written protest or withdraw a protest previously filed.

10756. (a) A protest by a landowner shall include the landowner's signature and a description of the land owned sufficient to identify the land. A public agency owning land is deemed to be a landowner for the purpose of making a written protest.

(b) The secretary of the local agency shall compare the names and

property descriptions on the protest against the property ownership records of the county assessor.

10757. A majority protest shall be determined to exist if the governing board of the local agency finds that the protests filed and not withdrawn prior to the conclusion of the second hearing represents more than 50 percent of the assessed value of the land within the local agency. If the board finds that a majority protest exists, the groundwater management program shall be abandoned and no new program shall be considered by the board for a period of one year following the date of the second hearing. If a majority protest has not been filed, the board, within 35 days after the conclusion of the second hearing, may adopt an ordinance or resolution to implement the program.

10758. A local agency authorized to establish programs for the management of groundwater resources pursuant to this part may, for that purpose, enter into a joint powers agreement pursuant to Chapter 5 (commencing with Section 6500) of Division 7 of Title 1 of the Government Code.

10759. A local agency which establishes a program for the management of groundwater resources pursuant to this part may fix and collect fees for the extraction of groundwater to pay the expenses incurred by the local agency for purposes of groundwater management including, but not limited to, administrative expenses and real costs associated with the acquisition of replenishment water.

10760. For purposes of groundwater management, a local agency authorized to establish programs for the management of groundwater resources pursuant to this part may exercise any of the powers of a water replenishment district under Part 4 (commencing with Section 60220) of Division 18 and may levy a water replenishment assessment in accordance with Part 6 (commencing with Section 60300) of Division 18.

10761. Before a local agency may levy a water replenishment assessment as authorized in Section 10760 or may otherwise fix and collect fees for the extraction of groundwater pursuant to this part, the local agency shall hold an election on the proposition of whether or not the local agency shall be authorized to levy a water replenishment assessment or to fix and collect fees for the extraction of groundwater. The local agency shall be authorized if a majority of the votes cast at the election is in favor of the proposition. The election shall be conducted in the manner prescribed by the principal act of the local agency.

10762. No local agency shall exercise the powers authorized by this part within the boundaries of another local agency providing water service to any or all of the lands within its boundaries, without the prior agreement of the governing body of that other local agency.

10763. All local agencies with overlapping boundaries which conduct groundwater management programs pursuant to this part shall, at least annually, meet for the purpose of coordinating their groundwater management programs.

10764. If a local agency annexes land subject to a groundwater management program of another local agency, the local agency annexing the land shall continue to comply with the groundwater management program for the annexed property.

10765. This part does not preempt, negate, affect, or imply the existence of any powers of a local agency in other groundwater basins of the state to establish programs for the management of groundwater resources.

10766. This part is in addition to, and not a limitation on, any powers of a local agency otherwise granted by law.

10767. This part does not exempt any local agency formed under any act requiring the approval of its leases, contracts, or issuance of securities by the Treasurer from obtaining the report, investigation, and approval of the Treasurer as required by that act or by the District Securities Investigation Law of 1965 (Chapter 2.5 (commencing with Section 58750) of Division 2 of Title 6 of the Government Code).

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 904

An act to add Part 7 (commencing with Section 14940) to Division 12 of the Health and Safety Code, relating to cigarette lighters.

[Approved by Governor October 12, 1991. Filed with Secretary of State October 14, 1991.]

The people of the State of California do enact as follows:

SECTION 1. Part 7 (commencing with Section 14940) is added to Division 12 of the Health and Safety Code, to read:

PART 7. CIGARETTE LIGHTERS

14940. The Legislature finds and declares that unreasonable risks of death and serious bodily injury are caused by fires started by the operation of cigarette lighters by children. The Legislature further finds and declares that these risks are sufficiently severe to require the enactment of standards to reduce the risks.

14941. As used in this part, the following terms shall have the following meanings:

(a) "Cigarette lighter" means a device used to light cigarettes, cigars, and pipes, but does not mean a match. "Cigarette lighter" includes a device, such as a watch, that may be used to light cigarettes, cigars, and pipes even though it is primarily used for other purposes. "Cigarette lighter" does not include lighters that are refillable and have a gross fueled weight of at least 35 grams.

(b) "Operate" means the ability to cause a cigarette lighter to ignite.

(c) "Special design" means a design of a cigarette lighter that results in the cigarette lighter being significantly difficult for children under five years of age to operate.

14942. (a) The State Fire Marshal shall adopt regulations by January 1, 1994, that specify standards for the special design of cigarette lighters, using an 80 percent acceptance criterion with respect to safety features that prevent operation of the lighters by children five years of age or younger. The State Fire Marshal shall select a test protocol from those which have been submitted, on or before the effective date of this act, to the Consumer Products Safety Commission of the United States. If federal standards for the special design of cigarette lighters are adopted, the federal standard shall take precedence over a regulation adopted pursuant to this section, and the regulation shall have no force or effect.

(b) Each manufacturer shall provide for the testing of its products that are subject to this section, through laboratories approved by the State Fire Marshal, and shall bear the cost of product testing according to the approved plan and test protocol. The State Fire Marshal may collect fees from manufacturers to pay for the application and approval process in conjunction with administering this section. Fees collected pursuant to this section shall be deposited into the Cigarette Lighter Safety Account in the General Fund, which is hereby created. Moneys in that account shall be available, upon appropriation by the Legislature, for reimbursement of the State Fire Marshal's costs in processing applications and approvals under this section. This section shall remain operative only if and when federal standards for the special design of cigarette lighters for the purpose stated in this section are not in effect.

14943. (a) No person shall sell, offer for sale, or distribute a cigarette lighter that does not comply with the standards adopted by the State Fire Marshal pursuant to Section 14942.

(b) Any person who violates subdivision (a) is guilty of an infraction and shall be punished by a fine of up to one hundred dollars ($100) for each cigarette lighter that is sold in violation of subdivision (a).

(c) This section shall not become operative until the State Fire Marshal adopts standards pursuant to Section 14942 and shall be operative only when those regulations are in effect as provided in subdivision (a) of Section 14942.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the

only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 905

An act to amend Section 21082.1 of, and to add Section 21092.5 to, the Public Resources Code, relating to environmental quality.

[Approved by Governor October 12, 1991 Filed with Secretary of State October 14, 1991]

The people of the State of California do enact as follows:

SECTION 1. (a) Section 21082.1 of the Public Resources Code is amended to read:

21082.1. (a) Any draft environmental impact report, environmental impact report, or negative declaration prepared pursuant to the requirements of this division shall be prepared directly by, or under contract to, a public agency.

(b) This section is not intended to prohibit, and shall not be construed as prohibiting, any person from submitting information or other comments to the public agency responsible for preparing an environmental impact report, draft environmental impact report, or negative declaration. The information or other comments may be submitted in any format, shall be considered by the public agency, and may be included, in whole or in part, in any report or declaration.

(c) The lead agency shall do all of the following:

(1) Independently review and analyze any report or declaration required by this division.

(2) Circulate draft documents which reflect its independent judgment.

(3) As part of the adoption of a negative declaration or certification of an environmental impact report, find that the report or declaration reflects the independent judgment of the lead agency.

SEC. 2. Section 21092.5 is added to the Public Resources Code, to read:

21092.5. (a) At least 10 days prior to certifying an environmental impact report, the lead agency shall provide a written proposed response to a public agency on comments made by that agency which conform with the requirements of this division. Proposed responses shall conform with the legal standards established for

responses to comments on draft environmental impact reports. Copies of responses or the environmental document in which they are contained, prepared in conformance with other requirements of this division and the guidelines adopted pursuant to Section 21083, may be used to meet the requirements imposed by this section.

(b) The lead agency shall notify any public agency which comments on a negative declaration, of the public hearing or hearings, if any, on the project for which the negative declaration was prepared. If notice to the commenting public agency is provided pursuant to Section 21092, the notice shall satisfy the requirement of this subdivision.

(c) Nothing in this section requires the lead agency to respond to comments not received within the comment periods specified in this division, to reopen comment periods, or to delay acting on a negative declaration or environmental impact report.

SEC. 3. The amendments to Section 21082.1 of the Public Resources Code made by this act, and the provisions of Section 21092.5 of the Public Resources Code, apply only to projects for which notice has not been provided pursuant to Section 21092 of the Public Resources Code as of January 1, 1992.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 906

An act to add Article 1.5 (commencing with Section 1750) to Chapter 1 Part 7 of Division 2 of the Labor Code, to add Section 19102 to, and to add Article 1.8 (commencing with Section 20104.70) to Chapter 1 of Part 3 of Division 2 of, the Public Contract Code, relating to public works.

[Approved by Governor October 12, 1991 Filed with Secretary of State October 14, 1991]

The people of the State of California do enact as follows:

SECTION 1. Article 1.5 (commencing with Section 1750) is added to Chapter 1 of Part 7 of Division 2 of the Labor Code, to read:

Article 1.5. Right of Action

1750. (a) (1) The second lowest bidder, and any person, firm, association, trust, partnership, labor organization, corporation, or other legal entity which has, prior to the letting of the bids on the public works project in question, entered into a contract with the second lowest bidder, that suffers damage as a proximate result of a competitive bid for a public works project, as defined in subdivision (b), not being accepted due to the successful bidder's violation, as evidenced by the conviction of the successful bidder therefor, of any provision of Division 4 (commencing with Section 3200) or of the Unemployment Insurance Code, may bring an action for damages in the appropriate state court against the violating person or legal entity.

(2) There shall be a rebuttable presumption that a successful bidder who has been convicted of a violation of any provision of Division 4 (commencing with Section 3200) of this code or of the Unemployment Insurance Code, or of both, was awarded the bid because that successful bidder was able to lower the bid due to this violation or these violations occurring on the contract for public work awarded by the public agency.

(b) For purposes of this article:

(1) "Public works project" means the construction, repair, remodeling, alteration, conversion, modernization, improvement, rehabilitation, replacement, or renovation of a public building or structure.

(2) "Second lowest bidder" means the second lowest qualified bidder deemed responsive by the public agency awarding the contract for public work.

(3) The "second lowest bidder" and the "successful bidder" may include any person, firm, association, corporation, or other legal entity.

(c) In an action brought pursuant to this section, the court may award costs and reasonable attorney's fees, in an amount to be determined in the court's discretion, to the prevailing party.

(d) For purposes of an action brought pursuant to this section, employee status shall be determined pursuant to Division 4 (commencing with Section 3200) with respect to alleged violations of that division, pursuant to the Unemployment Insurance Code with respect to alleged violations of that code, and pursuant to Section 2750.5 with respect to alleged violations of either Division 4 (commencing with Section 3200) or of the Unemployment Insurance Code.

(e) The right of action established pursuant to this article shall not be construed to diminish rights of action established pursuant to Section 19102 of, and Article 1.8 (commencing with Section 20104.70) of Chapter 1 of Part 3 of Division 2 of, the Public Contract Code.

(f) A second lowest bidder who has been convicted of a violation of any provision of Division 4 (commencing with Section 3200) of the

Labor Code or of the Unemployment Insurance Code, or both, within one year prior to filing the bid for public work, and who has failed to take affirmative steps to correct that violation or those violations, is prohibited from taking any action authorized by this section.

SEC. 2. Section 19102 is added to the Public Contract Code, to read:

19102. (a) (1) The second lowest bidder, and any person, firm, association, trust, partnership, labor organization, corporation, or other legal entity which has, prior to the letting of the bids on the public works project in question, entered into a contract with the second lowest bidder, may bring an action in superior court if that entity suffers damages as a result of the bid of the second lowest bidder for any contract subject to this part not being accepted due to the successful bidder's violation, as evidenced by the conviction of the successful bidder therefor, of any provision of Division 4 (commencing with Section 3200) of the Labor Code or of the Unemployment Insurance Code, or of both.

(2) There shall be a rebuttable presumption that a successful bidder who has been convicted of a violation of any provision of Division 4 (commencing with Section 3200) of the Labor Code or of the Unemployment Insurance Code, or of both, was awarded the bid because that successful bidder was able to lower the bid due to this violation or these violations occurring on the contract for public work awarded by the public agency.

(b) In an action brought pursuant to this section, the court may award costs and reasonable attorney's fees, in an amount to be determined in the court's discretion, to the prevailing party.

(c) For purposes of an action brought pursuant to this section:

(1) Employee status shall be determined pursuant to Division 4 (commencing with Section 3200) of the Labor Code with respect to alleged violations of that division, pursuant to the Unemployment Insurance Code with respect to alleged violations of that code, or pursuant to Section 2750.5 of the Labor Code with respect to alleged violations of either Division 4 (commencing with Section 3200) or of the Unemployment Insurance Code, or of both.

(2) "Second lowest bidder" means the second lowest qualified bidder deemed responsive by the public agency awarding the contract for public work.

(3) The "second lowest bidder" and the "successful bidder" may include any person, firm, association, corporation, or other legal entity.

(d) A second lowest bidder who has been convicted of a violation of any provision of Division 4 (commencing with Section 3200) of the Labor Code or of the Unemployment Insurance Code, or both, within one year prior to filing the bid for public work, and who has failed to take affirmative steps to correct that violation or those violations, is prohibited from taking any action authorized by this section.

SEC. 3. Article 1.8 (commencing with Section 20104.70) is added to Chapter 1 of Part 3 of Division 2 of the Public Contract Code, to read:

Article 1.8. Damages Related to Competitive Bidding

20104.70. (a) (1) The second lowest bidder, and any person, firm, association, trust, partnership, labor organization, corporation, or other legal entity which has, prior to the letting of the bids on the public works project in question, entered into a contract with the second lowest bidder, may bring an action in superior court if that entity suffers damages as a result of the bid of the second lowest bidder for any contract subject to this part not being accepted due to the successful bidder's violation, as evidenced by the conviction of the successful bidder therefor, of any provision of Division 4 (commencing with Section 3200) of the Labor Code or of the Unemployment Insurance Code, or of both.

(2) There shall be a rebuttable presumption that a successful bidder who has been convicted of a violation of any provision of Division 4 (commencing with Section 3200) of the Labor Code or of the Unemployment Insurance Code, or of both, was awarded the bid because that successful bidder was able to lower the bid due to this violation or these violations occurring on the contract for public work awarded by the public agency.

(b) In an action brought pursuant to this section, the court may award costs and reasonable attorney's fees, in an amount to be determined in the court's discretion, to the prevailing party.

(c) For purposes of an action brought pursuant to this section:

(1) Employee status shall be determined pursuant to Division 4 (commencing with Section 3200) of the Labor Code with respect to alleged violations of that division, pursuant to the Unemployment Insurance Code with respect to alleged violations of that code, or pursuant to Section 2750.5 of the Labor Code with respect to alleged violations of either Division 4 (commencing with Section 3200) or of the Unemployment Insurance Code, or of both.

(2) "Second lowest bidder" means the second lowest qualified bidder deemed responsive by the public agency awarding the contract for public work.

(3) The "second lowest bidder" and the "successful bidder" may include any person, firm, association, corporation, or other legal entity.

(d) A second lowest bidder who has been convicted of a violation of any provision of Division 4 (commencing with Section 3200) of the Labor Code or of the Unemployment Insurance Code, or both, within one year prior to filing the bid for public work, and who has failed to take affirmative steps to correct that violation or those violations, is prohibited from taking any action authorized by this section.

CHAPTER 907

An act to amend Sections 66424.6 and 66452.6 of, and to add Section 66463.1 to, the Government Code, relating to subdivisions.

[Approved by Governor October 12, 1991 Filed with Secretary of State October 14, 1991]

The people of the State of California do enact as follows:

SECTION 1. Section 66424.6 of the Government Code is amended to read:

66424.6. (a) When a subdivision, as defined in Section 66424, is of a portion of any unit or units of improved or unimproved land, the subdivider may designate as a remainder that portion which is not divided for the purpose of sale, lease, or financing. Alternatively, the subdivider may omit entirely that portion of any unit of improved or unimproved land which is not divided for the purpose of sale, lease, or financing. If the subdivider elects to designate a remainder, the following requirements shall apply:

(1) The designated remainder shall not be counted as a parcel for the purpose of determining whether a parcel or final map is required.

(2) For a designated remainder parcel described in this subdivision, the fulfillment of construction requirements for improvements, including the payment of fees associated with any deferred improvements, shall not be required until a permit or other grant of approval for development of the remainder parcel is issued by the local agency or, where provided by local ordinance, until the construction of the improvements, including the payment of fees associated with any deferred improvements, is required pursuant to an agreement between the subdivider and the local agency. In the absence of that agreement, a local agency may require fulfillment of the construction requirements, including the payment of fees associated with any deferred improvements, within a reasonable time following approval of the final map and prior to the issuance of a permit or other grant of approval for the development of a remainder parcel upon a finding by the local agency that fulfillment of the construction requirements is necessary for reasons of:

(A) The public health and safety; or

(B) The required construction is a necessary prerequisite to the orderly development of the surrounding area.

(b) If the subdivider elects to omit all or a portion of any unit of improved or unimproved land which is not divided for the purpose of sale, lease, or financing, the omitted portion shall not be counted as a parcel for purposes of determining whether a parcel or final map is required, and the fulfillment of construction requirements for offsite improvements, including the payment of fees associated with any deferred improvements, shall not be required until a permit or

other grant of approval for development is issued on the omitted parcel, except where allowed pursuant to paragraph (2) of subdivision (a).

(c) The provisions of subdivisions (a) and (b) providing for deferral of the payment of fees associated with any deferred improvements shall not apply if the designated remainder or omitted parcel is included within the boundaries of a benefit assessment district or community facilities district.

(d) A designated remainder or any omitted parcel may subsequently be sold without any further requirement of the filing of a parcel map or final map, but the local agency may require a certificate of compliance or conditional certificate of compliance.

SEC. 2. Section 66452.6 of the Government Code is amended to read:

66452.6. (a) An approved or conditionally approved tentative map shall expire 24 months after its approval or conditional approval, or after any additional period of time as may be prescribed by local ordinance, not to exceed an additional 12 months. However, if the subdivider is required to expend one hundred twenty-five thousand dollars ($125,000) or more to construct, improve, or finance the construction or improvement of public improvements outside the property boundaries of the tentative map, excluding improvements of public rights-of-way which abut the boundary of the property to be subdivided and which are reasonably related to the development of that property, each filing of a final map authorized by Section 66456.1 shall extend the expiration of the approved or conditionally approved tentative map by 36 months from the date of its expiration, as provided in this section, or the date of the previously filed final map, whichever is later. The extensions shall not extend the tentative map more than 10 years from its approval or conditional approval. However, a tentative map on property subject to a development agreement authorized by Article 2.5 (commencing with Section 65864) of Chapter 4 of Division 1 may be extended for the period of time provided for in the agreement, but not beyond the duration of the agreement. The number of phased final maps which may be filed shall be determined by the advisory agency at the time of the approval or conditional approval of the tentative map.

The amount of one hundred twenty-five thousand dollars ($125,000) shall be increased by the registrar of contractors according to the adjustment for inflation set forth in the statewide cost index for class B construction, as determined by the State Allocation Board at its January meeting. The adjustment by the registrar of contractors shall be effective on the first day of the month occurring more than 30 calendar days after the registrar of contractors makes that adjustment. The adjusted amount shall apply to tentative and vesting tentative maps whose applications were received after the effective date of the adjustment.

"Public improvements," as used in this subdivision, include traffic controls, streets, roads, highways, freeways, bridges, overcrossings,

street interchanges, flood control or storm drain facilities, sewer facilities, water facilities, and lighting facilities.

(b) (1) The period of time specified in subdivision (a), including any extension thereof granted pursuant to subdivision (e), shall not include any period of time during which a development moratorium, imposed after approval of the tentative map, is in existence. However, the length of the moratorium shall not exceed five years.

(2) The length of time specified in paragraph (1) shall be extended for up to three years, but in no event beyond January 1, 1992, during the pendency of any lawsuit in which the subdivider asserts, and the local agency which approved or conditionally approved the tentative map denies, the existence or application of a development moratorium to the tentative map.

(3) Once a development moratorium is terminated, the map shall be valid for the same period of time as was left to run on the map at the time that the moratorium was imposed. However, if the remaining time is less than 120 days, the map shall be valid for 120 days following the termination of the moratorium.

(c) The period of time specified in subdivision (a), including any extension thereof granted pursuant to subdivision (e), shall not include the period of time during which a lawsuit involving the approval or conditional approval of the tentative map is or was pending in a court of competent jurisdiction, if the stay of the time period is approved by the local agency pursuant to this section. After service of the initial petition or complaint in the lawsuit upon the local agency, the subdivider may apply to the local agency for a stay pursuant to the local agency's adopted procedures. Within 40 days after receiving the application, the local agency shall either stay the time period for up to five years or deny the requested stay. The local agency may, by ordinance, establish procedures for reviewing the requests, including, but not limited to, notice and hearing requirements, appeal procedures, and other administrative requirements.

(d) The expiration of the approved or conditionally approved tentative map shall terminate all proceedings and no final map or parcel map of all or any portion of the real property included within the tentative map shall be filed with the legislative body without first processing a new tentative map. Once a timely filing is made, subsequent actions of the local agency, including, but not limited to, processing, approving, and recording, may lawfully occur after the date of expiration of the tentative map. Delivery to the county surveyor or city engineer shall be deemed a timely filing for purposes of this section.

(e) Upon application of the subdivider filed prior to the expiration of the approved or conditionally approved tentative map, the time at which the map expires pursuant to subdivision (a) may be extended by the legislative body or by an advisory agency authorized to approve or conditionally approve tentative maps for a period or periods not exceeding a total of three years. The period of extension

specified in this subdivision shall be in addition to the period of time provided by subdivision (a). Prior to the expiration of an approved or conditionally approved tentative map, upon an application by the subdivider to extend that map, the map shall automatically be extended for 60 days or until the application for the extension is approved, conditionally approved, or denied, whichever occurs first. If the advisory agency denies a subdivider's application for an extension, the subdivider may appeal to the legislative body within 15 days after the advisory agency has denied the extension.

(f) For purposes of this section, a development moratorium includes a water or sewer moratorium, or a water and sewer moratorium, as well as other actions of public agencies which regulate land use, development, or the provision of services to the land, including the public agency with the authority to approve or conditionally approve the tentative map, which thereafter prevents, prohibits, or delays the approval of a final or parcel map. A development moratorium shall also be deemed to exist for purposes of this section for any period of time during which a condition imposed by the city or county could not be satisfied because of either of the following:

(1) The condition was one which, by its nature, necessitated action by the city or county, and the city or county either did not take the necessary action or by its own action or inaction was prevented or delayed in taking the necessary action prior to expiration of the tentative map.

(2) The condition necessitates acquisition of real property or any interest in real property from a public agency, other than the city or county that approved or conditionally approved the tentative map, and that other public agency fails or refuses to convey the property interest necessary to satisfy the condition. However, nothing in this subdivision shall be construed to require any public agency to convey any interest in real property owned by it. A development moratorium specified in this paragraph shall be deemed to have been imposed either on the date of approval or conditional approval of the tentative map, if evidence was included in the public record that the public agency which owns or controls the real property or any interest therein may refuse to convey that property or interest, or on the date that the public agency which owns or controls the real property or any interest therein receives an offer by the subdivider to purchase that property or interest for fair market value, whichever is later. A development moratorium specified in this paragraph shall extend the tentative map up to the maximum period as set forth in subdivision (b), but not later than January 1, 1992, so long as the public agency which owns or controls the real property or any interest therein fails or refuses to convey the necessary property interest, regardless of the reason for the failure or refusal, except that the development moratorium shall be deemed to terminate 60 days after the public agency has officially made, and communicated to the subdivider, a written offer or commitment

binding on the agency to convey the necessary property interest for a fair market value, paid in a reasonable time and manner.

(g) The rights conferred by a vesting tentative map as provided by Chapter 4.5 (commencing with Section 66498.1) shall last for an initial time period, as provided by ordinance, but shall not be less than one year or more than two years beyond the recording of the final map. Where several final maps are recorded on various phases of a project covered by a single vesting tentative map, the one year initial time period shall begin for each phase when the final map for that phase is recorded.

The initial time period shall be automatically extended by any time used by the local agency for processing a complete application for a grading permit or for design or architectural review, if the time used by the local agency to process the application exceeds 30 days, from the date that a complete application is filed. At any time prior to the expiration of the initial time period provided by this section, the subdivider may apply for a one-year extension. If the extension is denied by an advisory agency, the subdivider may appeal that denial to the legislative body within 15 days.

(h) If the subdivider submits a complete application for a building permit during the periods of time specified in subdivision (g), the rights conferred by Chapter 4.5 (commencing with Section 66498.1) shall continue until the expiration of that permit, or any extension of that permit granted by the local agency.

SEC. 3. Section 66463.1 is added to the Government Code, to read:

66463.1. Multiple parcel maps filed pursuant to Section 66426 relating to an approved or conditionally approved tentative map may be filed prior to the expiration of the tentative map if either condition is satisfied:

(a) The subdivider, at the time the tentative map is filed, provides a written notice to the advisory agency or the local agency of the subdivider's intention to file multiple parcel maps on the tentative map.

(b) After filing of the tentative map, the local agency and the subdivider concur in the filing of multiple parcel maps.

In providing the notice specified in subdivision (a), the subdivider shall not be required to define the number or configuration of the proposed multiple parcel maps. The filing of a parcel map on a portion of an approved or conditionally approved tentative map shall not invalidate any part of the tentative map. The right of the subdivider to file multiple parcel maps shall not limit the authority of the local agency to impose reasonable conditions relating to the filing of multiple parcel maps.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act. Notwithstanding Section 17580 of the

Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 908

An act to amend Sections 14509.3, 14560, 14575, 14580, 14581, and 14581.5 of, to add Sections 14537.5, 14549.5, 14575.1, and 14587.5 to, and to add and repeal Section 14575.1 of, the Public Resources Code, relating to beverage containers, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 12, 1991 Filed with Secretary of State October 14, 1991.]

The people of the State of California do enact as follows:

SECTION 1. Section 14509.3 of the Public Resources Code is amended to read:

14509.3. "Cullet" means scrap glass that is derived from postfilled food, drink, or beverage container glass producted or imported for sale in the state.

SEC. 1.5. Section 14537.5 is added to the Public Resources Code, to read:

14537.5. On or before January 10, 1992, in conjunction with the submittal of the 1992–93 Budget Act to the Legislature, the Department of Finance shall submit a report to the Legislature and the Governor which reviews the department's administrative expenditures pursuant to this division and makes recommendations, to the extent necessary, for legislative, budgetary, and administrative actions which may be taken to reduce administrative costs.

SEC. 2. Section 14549.5 is added to the Public Resources Code, to read:

14549.5. On or before November 1, 1991, the department shall recalculate the commingled rate for refund values glass beverage containers and postfilled containers paid to curbside recycling programs and recycling centers. As part of the recalculation of refund values pursuant to this section, the department shall strive to assure the most accurate commingled rate feasible, taking into account seasonal variations in the amount of beverage containers and postfilled containers collected by curbside recycling programs and recycling centers and any other relevant factors. It is the intent of the Legislature in enacting this section that, in order to protect the solvency of the fund and the account, the commingled rate calculated by the department shall ensure that refund values are not paid from the fund for nonbeverage container glass.

SEC. 3. Section 14560 of the Public Resources Code is amended to read:

14560. (a) On and before October 31, 1989, every beverage distributor shall pay the department, for deposit into the fund, a redemption payment of one cent ($0.01) for every beverage container sold or offered for sale in this state by the distributor. On and before October 31, 1989, every beverage container sold or offered for sale in this state has a minimum refund value of one cent ($0.01), and any applicable redemption bonus, as defined pursuant to Section 14523 and calculated pursuant to Section 14581, as those sections read on January 1, 1989.

(b) (1) Except as provided in subdivisions (d), (e), (f), and (h), on and after November 1, 1989, every beverage distributor shall pay the department, for deposit into the fund, a redemption payment of two cents ($0.02) for every beverage container sold or offered for sale in this state by the distributor. On and after November 1, 1989, a beverage container with a capacity of 24 fluid ounces or more shall be considered as two beverage containers for purposes of redemption payments and refund values.

(2) On and after November 1, 1989, but not on or after December 31, 1989, every beverage container sold or offered for sale in this state has a minimum refund value of one cent ($0.01), and any applicable redemption bonus, as defined pursuant to Section 14523 and calculated pursuant to Section 14581, as those sections read on January 1, 1989.

(c) Except as provided in subdivisions (d), (e), and (h), on and after January 1, 1990, every beverage container sold or offered for sale in this state has a minimum refund value of five cents ($0.05) for every two beverage containers redeemed and two cents ($0.02) for every single or unpaired beverage container redeemed in a single transaction.

(d) (1) From the effective date of the act amending this section until January 1, 1993, the department shall periodically review the fund and the account to ensure that there are adequate funds in the fund and the account to pay the refund values and other disbursements required by this division.

(A) If the department determines, pursuant to a review made pursuant to paragraph (1) that there may be inadequate funds to pay the refund values and necessary disbursements required by this division, it shall immediately notify the Chairs of the Natural Resources Committees of the Senate, the Natural Resources Committee of the Assembly, the Ways and Means Committee of the Assembly, and the Budget and Fiscal Review Committee of the Senate of the need for urgent legislative action.

(B) On or before 180 days after the notice is sent pursuant to subparagraph (A), the department may eliminate expenditures from the account as necessary, according to the order of priorities specified in Section 14581, to ensure there are adequate funds in the fund and the account to pay the refund values and other disbursements required by this division.

(C) If the department determines that there will not be adequate

funds in the fund or the account for the payment of the refund values and other disbursements required in this division, the department shall increase the redemption payment by an additional one-half cent ($0.005) for a total redemption payment of two and one-half cents ($0.025) per beverage container. The department shall provide at least 60-days notice to distributors of a redemption payment increase made pursuant to this subparagraph. Prior to increasing redemption payments pursuant to this subdivision, the director of the department shall make available to the public written findings with supporting data which show the reasons which necessitate the increase. The findings and supporting data shall be reviewed by the Department of Finance. No increase pursuant to this subparagraph shall take effect prior to March 1, 1992.

(2) If, at any time after the department has increased the redemption payment pursuant to subparagraph (C) of paragraph (1), the department determines that the increase in the redemption payment is no longer needed to ensure that there are adequate funds to pay the refund values and other disbursements required by this division for the ensuing 180 days, plus a 10 percent reserve, the department shall reduce the redemption payment by not more than one-half cent ($0.005). The department shall provide to distributors at least 60-days notice of a redemption payment decrease made pursuant to this paragraph.

(e) On and after January 1, 1993, every beverage container sold or offered for sale in this state has a minimum refund value of five cents ($0.05) for every beverage container redeemed, except as provided in subdivision (h), if the redemption rate for that type of beverage container is less than 65 percent, as determined by the procedure set forth in subdivision (f).

(f) Except as provided in subdivision (h), on and after January 1, 1993, every distributor shall pay the department for deposit into the fund, a minimum redemption payment of three cents ($0.03) for every beverage container sold or offered for sale in this state if both of the following conditions are met for that specific type of beverage container:

(1) For the reporting period beginning January 1, 1992, and ending June 30, 1992, the redemption rate determined pursuant to Section 14551 for that type of beverage container is less than 65 percent.

(2) The average redemption rate for the highest two of any four reporting periods, the fourth period of which is the period ending June 30, 1992, is less than 65 percent.

(g) Except as provided in subdivisions (d) and (h), once any redemption payment is established for any type of beverage container, the redemption payment shall not be decreased based upon the redemption rate.

(h) The redemption payment for a specific type of beverage container established pursuant to subdivision (f) shall be decreased to not less than two and one-half cents ($0.025) per beverage

container if the redemption rate for that type of beverage container is 80 percent or more during all of four consecutive reporting periods and the refund value for that type of beverage container shall be five cents ($0.05) for every two beverage containers redeemed and two cents ($0.02) for every single or unpaired beverage container redeemed in a single transaction. The decrease shall occur six months following the end of the fourth reporting period. If the redemption rate for that type of beverage container thereafter falls below 65 percent for any two of any four consecutive reporting periods, the redemption payment for that type of beverage container shall be increased to three cents ($0.03) per container until a redemption rate of 80 percent or more, during all of four consecutive reporting periods, is established for that type of beverage container and the refund value for that type of beverage container shall be five cents ($0.05) for each beverage container redeemed.

(i) This section does not apply to any refillable beverage container.

(j) (1) Any certified processor or recycling center who submits a claim to the department or a processor, respectively, for a refund value established or revised by the act amending this section during the 1989–90 Regular Session, on any beverage container purchased by the processor or received by the recycling center before October 2, 1989, at that session is guilty of fraud, and the department may impose a civil penalty of up to ten thousand dollars ($10,000) upon the processor or recycling center and may revoke the certification of the processor or recycling center.

(2) Each certified processor and recycling center shall submit an affidavit to the department on or before October 17, 1989. The affidavit shall attest that the processor or recycling center will not submit a claim for a refund value established by the act amending this section, which is higher than the refund value actually paid by the processor or recycler on any beverage container purchased or received before October 2, 1989.

SEC. 4. Section 14575 of the Public Resources Code is amended to read:

14575. (a) Except as provided in subdivision (b), if any type of empty beverage container with a refund value established pursuant to Section 14560 has a scrap value less than the sum of paragraphs (1) and (2), the department shall establish a processing fee for the container, by the type of the material of the container, at least equal to the difference between the scrap value offered by a statistically significant sample of container manufacturers, beverage manufacturers, processors, or willing purchasers, for each container sold by the beverage manufacturer, and the sum of both of the following:

(1) The actual cost for certified recycling centers, excluding those recycling centers receiving a convenience incentive payment, and certified processors which did not receive convenience incentive payments in the year in which the processing fee is calculated or

recalculated, of receiving, handling, processing, storing, transporting, and maintaining equipment for each container sold for recycling or, only if the container is not recyclable, for disposal, calculated pursuant to subdivision (c).

(2) A reasonable financial return for recycling centers and processors, calculated pursuant to subdivision (c).

(b) Notwithstanding subdivision (a), any processing fee established by the department on or before January 1, 1992, shall use a recycling cost which is equal to or less than the recycling cost calculated by the department on or before January 1, 1991, pursuant to paragraphs (1) and (2) of subdivision (a). In no event shall a recycling cost exceed one thousand one hundred seven dollars ($1,107) per ton.

(c) On or before January 1, 1991, or on the earliest practicable date thereafter, and on or before January 1 annually thereafter, the department shall calculate weighted statewide average values for the amounts specified in paragraphs (1) and (2) of subdivision (a) for each type of container material sold and a new processing fee, which shall be effective on that same date.

(d) A processing fee established pursuant to this section shall be based upon all of the following:

(1) The average scrap values paid by willing purchasers during the 1990 calendar year for the initial calculation and the average scrap values paid by willing purchasers during the calendar year directly preceding the year in which the processing fee is calculated for any subsequent calculation. Any processing fee established by the department on or before January 1, 1992, for glass beverage containers shall not include the average scrap value paid for mixed color cullet by willing purchasers who are not glass container manufacturers.

(2) The latest available data indicating the volumes of beverage containers collected by certified processors and recycling centers.

(3) The actual recycling costs for certified recycling centers and processors, as determined pursuant to paragraph (1) of subdivision (a) for the 1989 calendar year for the initial calculation, and for the second calendar year preceding the year in which the processing fee is calculated for any subsequent calculation.

(e) Every six months, or more frequently as determined to be necessary by the department, the department may adjust a processing fee established pursuant to this section if both of the following occur:

(1) The department determines that the average statewide scrap values paid by willing purchasers are less than the average scrap values used as the basis for the processing fee calculation.

(2) The department determines that adjusting the processing fee is necessary to further the objectives of this division.

(f) The calculations of the statewide weighted average values and processing fee made pursuant to subdivision (c) shall be based on audited surveys of the costs specified in subdivision (a) at existing

certified recycling centers, reverse vending machines, and processors, with standardized modifications for transportation distances and factors specific to a particular region, as determined by the department, and, if the container is not recyclable, local disposal fees. The processing fee shall be calculated in a manner which furthers the purposes of this division and the fee shall be sufficient to establish sufficient recycling locations and processors to achieve the goals established pursuant to subdivision (c) of Section 14501 and Section 14571. Except for the first calculation of a processing fee made pursuant to this section, 60 days prior to the annual calculation of the processing fee, the department shall submit a report to the Chairman of the Assembly Natural Resources Committee and the Chairman of the Senate Natural Resources and Wildlife Committee. The report shall include a summary of the fluctuations of costs and scrap values necessitating the recalculation. The report shall also highlight changes in markets, new technologies, and other business and economic factors. The report shall include a description of the average per container statewide costs of recycling beverage containers, by each material type, for the following recycling systems, including a description of any assumptions used to allocate undifferentiated costs among material types, and a brief statement of the reason for the adoption of these assumptions:

(1) Automated recycling centers.

(2) Staffed recycling centers.

(3) Recycling centers established since September 29, 1988.

(4) Recycling centers established prior to September 29, 1988.

(5) Recyclers receiving convenience incentive payments, as feasible.

(6) Nonprofit dropoff programs.

(7) Curbside recycling programs.

(g) (1) Except as provided in paragraph (2), every beverage manufacturer shall pay to the department the applicable processing fee for each container sold or transferred to a distributor or dealer within 40 days of the sale in the form and in the manner which the department may prescribe.

(2) Notwithstanding Section 14506, with respect to the payment of processing fees for beer and other malt beverages, the beverage manufacturer shall be deemed to be the person or entity named on the certificate of compliance issued pursuant to Section 23671 of the Business and Professions Code. If the department is unable to collect the processing fee from the person or entity named on the certificate of compliance, the department shall give written notice by certified mail to that person or entity. The notice shall state that the processing fee shall be remitted in full within 30 days of issuance of the notice or the person or entity shall not be permitted to offer that beverage brand for sale within the state. If the person or entity fails to remit the processing fee within 30 days of issuance of the notice, the department shall notify the Department of Alcoholic Beverage Control that the certificate holder has failed to comply, and the

Department of Alcoholic Beverage Control shall prohibit the offering or sale of that beverage brand within the state.

The department shall enter into a contract with the Department of Alcoholic Beverage Control, pursuant to Section 14536.5, concerning the implementation of this paragraph, which shall include a provision reimbursing the Department of Alcoholic Beverage Control for its costs incurred in implementing this paragraph.

(3) The department shall pay the processing fees collected on redeemed containers to processors, in the same manner as it pays refund values pursuant to Sections 14573 and 14573.5. The department shall pay the processing fees collected on unredeemed containers into the Redemption Account created pursuant to Section 14580. The department shall not use processing fees collected on unredeemed beverage containers to pay all or a portion of the processing costs determined pursuant to subdivision (a). The processor shall pay the recycling center that portion of the processing fee representing the actual cost and financial return incurred by the recycling center, as specified in subdivision (a).

(h) When assessing processing fees pursuant to subdivision (c), the department shall assess the processing fee on each container sold, by the type of material of the container, assuming that every container sold will be redeemed for recycling, whether or not the container is actually recycled. When calculating and assessing processing fees the department also shall not assume that redemption bonuses will be kept by recycling centers or locations.

(i) The container manufacturer, or a designated agent, shall pay to, or credit, the account of the beverage manufacturer in an amount equal to the processing fee.

SEC. 5. Section 14575.1 is added to the Public Resources Code, to read:

14575.1. (a) One or before December 1, 1991, the department shall calculate the difference between the following:

(1) The total processing fee payments for plastic beverage containers received from beverage manufacturers.

(2) The total payments made by the department to reimburse certified recyclers and processors for the cost to collect plastic beverage containers.

In determining the calculation, the department shall use data from the first nine months of 1991, or from whatever most recent reporting period is available.

The difference between paragraphs (1) and (2) shall be annualized by the department to estimate the total amount of processing fee overpayment for plastic beverage containers during 1991.

(b) No later than December 1, 1991, the department shall announce the difference determined by the calculation in subdivision (a). The amount of this difference shall be placed in a fund to be used to pay certified processors pursuant to subdivision

(c).

(c) Commencing January 1, 1992, the department shall pay certified processors an amount equal to one hundred ten dollars ($110) per ton for all empty plastic beverage containers until the fund is depleted. Thirty days prior to the depletion of the fund, the department shall notify any willing purchaser of empty plastic beverage containers that the fund will be depleted.

(d) If prior to depletion of the funds referred in subdivisions (b) and (c) a willing purchaser offers to purchase empty plastic beverage containers in an amount equal to or more than the recycling cost for empty plastic beverage containers determined by subdivision (a) of Section 14575, less the amount calculated pursuant to subdivision (c), a processing fee on plastic beverage containers shall not be imposed pursuant to Section 14575.

(e) The department shall monitor the average statewide scrap value of empty plastic beverage containers on a monthly basis to determine whether the statewide average scrap value is equal to or more than the recycling cost for plastic beverage containers determined pursuant to subdivision (a) of Section 14575.

(f) If the department determines that the average statewide scrap value paid for empty plastic beverage containers deviates by more than 10 percent from the cost to recycle empty plastic beverage containers determined pursuant to subdivision (a) of Section 14575, the department shall immediately provide written notification of the deviation for that monthly period and the amount of that deviation to any willing purchaser.

(1) If the deviation from the average statewide scrap value results in an amount less than the cost of recycling empty plastic beverage containers determined by subdivision (a) of Section 14575, a willing purchaser shall correct the deficiency by payment of the amount necessary to maintain the average statewide scrap value for that monthly period. The failure to correct the notice of deficiency within 30 days of the receipt of the notice shall cause the department to notify all willing purchasers and all beverage manufacturers using plastic beverage containers that a processing fee may be imposed. If the deviation is not corrected, after notice has been given pursuant to this paragraph, the department shall impose a processing fee pursuant to Section 14575 which includes any amount necessary, including any amount in arrears, to cover the cost of recycling empty plastic beverage containers.

(2) If the deviation from the average statewide scrap value results in an amount more than the total cost to recycle empty plastic beverage containers determined by subdivision (a) of Section 14575, the department shall immediately provide written notification to all willing purchasers that an excess occurred for that monthly period and the amount of such excess. The willing purchaser shall receive a credit in the amount of such excess payment for any future monthly period wherein in the average statewide scrap value is not maintained.

(g) Nothing in this section is intended to affect any pending litigation in which the department is a party of record.

(h) This section shall remain in effect until December 31, 1992, and as of that date is repealed unless a later statute amends or repeals that date.

SEC. 6. Section 14580 of the Public Resources Code is amended to read:

14580. (a) Except as provided in subdivision (d), the department shall deposit all amounts paid as redemption payments by distributors pursuant to Section 14574, processing fees paid pursuant to Section 14575, civil penalties or fines paid pursuant to Section 14541 or subdivision (c) of Section 14591, and all other revenues received into the California Beverage Container Recycling Fund, which is hereby created in the State Treasury. Notwithstanding Section 13340 of the Government Code, the moneys in the fund are hereby continuously appropriated to the department for expenditure without regard to fiscal year for the following purposes:

(1) The payment of refund values to processors pursuant to Section 14573.

(2) For a reserve for contingencies, which shall not be greater than an amount equal to one-fourth of the total amount paid to processors pursuant to Section 14573 during the preceding calendar year, plus any interest earned on that amount.

(b) The moneys in the fund may be expended by the department for the administration of this division only upon appropriation by the Legislature in the annual Budget Act.

(c) After all of the expenditures pursuant to subdivisions (a) and (b) have been made, the balance remaining in the fund shall be deposited in the Redemption Account, which is hereby created as a subaccount in the fund. Notwithstanding Section 13340 of the Government Code, the moneys in the Redemption Account are hereby continuously appropriated to the department, without regard to fiscal year, for the purposes specified in Section 14581. The moneys in the Redemption Account may be expended by the department only upon appropriation by the Legislature in the annual Budget Act.

(d) The department shall deposit all amounts paid as processing fees pursuant to Section 14575 for glass beverage containers into the Glass Processing Fee Account, which is hereby created in the fund. The moneys in the Glass Processing Fee Account may be expended by the department only upon appropriation by the Legislature in the annual Budget Act.

SEC. 7. Section 14581 of the Public Resources Code is amended to read:

14581. The department shall periodically calculate and pay the refund values required in subdivisions (a), (b), (c), (e), and (h) of Section 14560 and may thereafter expend any additional funds remaining in the account, as specified in subdivision (c) of Section

14580, in the following order of priority:

(a) The department shall annually expend seven million five hundred thousand dollars ($7,500,000) of the amount deposited in the account for urban, rural, aquatic, and recreational litter abatement and recycling activities, and for grants with statewide private nonprofit entities for recycling information, education, and promotion. The seven million five hundred thousand dollars ($7,500,000) which the department may expend beginning January 1, 1990, pursuant to this paragraph, is a base amount, and, on and after January 1, 1991, the department shall adjust this base amount annually to reflect increases or decreases in the cost of living, as measured by the Department of Labor or a successor agency of the United States government. The funds for urban, rural, and recreational litter abatement and recycling activities shall be expended in the form of grants issued to local conservation organizations. Six million dollars ($6,000,000) of this amount shall be expended in the form of grants, as specified by the department, to certified community conservation corps, either existing or those established in the future, designated by a city or a city and county to perform litter abatement, recycling, and related activities, if the city or the city and county has a population, as determined by the last federal census, of more than 250,000 persons. Any grants provided pursuant to this paragraph shall not comprise more than 75 percent of the annual budget of a community conservation corps.

(b) After making the expenditure specified in subdivision (a), the department may annually expend up to fifteen million dollars ($15,000,000) of the amount deposited in the account for making convenience incentive payments, pursuant to Section 14585, until January 1, 1993.

(c) After making the expenditures specified in subdivisions (a) and (b), the department may annually expend, until June 30, 1990, up to two million dollars ($2,000,000) for contracts with certified recycling centers located in convenience zones for advertising and promotion.

SEC. 8. Section 14581.5 of the Public Resources Code is amended to read:

14581.5. (a) The department shall expend the funds in the Glass Processing Fee Account to pay the processing fee for redeemed glass beverage containers to each processor, as specified in subdivision (c) of Section 14575. The processor shall pay the recycling center that portion of the processing fee representing the actual cost and financial return incurred by the recycling center, as specified in subdivision (c) of Section 14573.5.

(b) On or before January 1, 1991, or the earliest practicable date thereafter, the department shall establish a market development program for users and sellers of glass cullet. The department shall establish the market development program in accordance with the following criteria:

(1) Within 45 days after receiving a request for payment, the

department shall pay a market development payment to a container manufacturer who purchases cullet from certified processors and who uses cullet in the manufacture of beverage containers, if the container manufacturer provides proof to the department of the amount of the cullet purchased, in tons, the identity of the certified processor from whom the cullet was purchased, the percentage use of cullet in the manufacture of beverage containers, and any other documentation that the department may require. The container manufacturer shall also provide an affidavit from the processor attesting to the number of tons sold to the container manufacturer and the date of delivery of the cullet.

(2) Within 45 days after receiving a request for payment, the department shall pay a market development payment to a processor who provides satisfactory proof to the department that the processor sold the cullet to a willing purchaser, other than a container manufacturer, who will reuse the cullet. For purposes of this paragraph, "satisfactory proof" means a shipping report showing the amount of cullet sold in tons, and an affidavit which is from the processor that states that the cullet will be reused, which describes the anticipated end use, and which contains any other documentation that the department may require.

(3) The department shall not pay a market development payment for any cullet which is, or is likely to be, disposed of by landfill. The department may pay a market development payment only for cullet derived from material previously sold to consumers in this state.

(4) Any person who claims a market development payment for cullet which is ineligible for a payment is in violation of this division.

(c) In determining the amount of the market development payment, the department shall consider all of the following:

(1) The anticipated amount of excess funds available in the Glass Processing Fee Account in the coming quarter.

(2) Current scrap values.

(3) The amount of the processing fee then in effect.

(4) Recycling and redemption rates for glass.

(d) The department shall determine the amount of the market development payment on or before January 1 and July 1 of each year, based on the tonnage of cullet sold or purchased. The determination made on or before January 1 shall be paid from January 1 to June 30, inclusive, and the determination made on or before July 1 shall be paid from July 1 to December 31, inclusive. If there are insufficient funds in the Glass Processing Fee Account to make anticipated payments, the department may, in its sole discretion, terminate the market development program or reduce the payment amount until adequate funds are restored to the Glass Processing Fee Account. To avoid potential stockpiling of glass cullet, the department may determine not to publish or otherwise announce the amount of the market development payment in advance.

(e) (1) The establishment of the market development program, including the determination of the market development payment,

and the analysis made pursuant to subdivision (c), is exempt from the requirements concerning the adoption of regulations in Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(2) If the department determines that it is necessary to adopt, amend, or repeal regulations to implement this section and Section 14575, the regulations shall be adopted as emergency regulations and are exempt from subdivision (c) of Section 14536. The Office of Administrative Law shall consider these regulations to be necessary for the immediate preservation of the public peace, health and safety, and the general welfare for purposes of Section 11349.6 of the Government Code. Notwithstanding subdivision (e) of Section 11346.1 of the Government Code, the emergency regulations adopted or amended pursuant to this section and Section 14575 shall be repealed 180 days after the regulations' effective date, unless the department complies with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(f) If insufficient money is available in the Glass Processing Fee Account to initially fund the market development program at a level determined by the department to be necessary to accomplish the purposes of this section, the department may expend up to fifteen million dollars ($15,000,000) from the Redemption Account from January 1, 1991, to December 31, 1991, inclusive, for purposes of initially funding the market development program. The department shall repay the amount expended from the Redemption Account on or before June 30, 1994, with interest at the Pooled Money Investment Fund rate from the funds in the Glass Processing Fee Account.

(g) The department shall develop procedures for reducing processing fee payments for beverage manufacturers based on projected tonnage of cullet utilized, and reducing the subsequent market development payments paid by container manufacturers providing containers to beverage manufacturers.

(h) Any container manufacturer who receives a market development payment pursuant to this section shall provide a credit to purchasers of glass beverage containers against the purchase price of a glass beverage container in an amount equal to the market development payment received by the container manufacturer.

SEC. 9. Section 14587.5 is added to the Public Resources Code, to read:

14587.5. Notwithstanding any other provision of law, for the 1991–92 fiscal year, the department shall not expend more than two million seven hundred fifty thousand dollars ($2,750,000) for statewide advertising.

SEC. 10. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty

for a crime or infraction, or eliminates a crime or infraction. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

SEC. 11. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to encourage the reuse of redeemed beverage containers, thereby protecting public safety and the environment, it is necessary that this act take effect immediately.

CHAPTER 909

An act relating to criminal fines.

[Approved by Governor October 13, 1991 Filed with Secretary of State October 14, 1991]

The people of the State of California do enact as follows:

SECTION 1. The Legislature hereby finds that the "day-fine system" of imposing fines has been successful in the countries of Sweden and West Germany, and in the past year in the United States in Staten Island, New York and Phoenix, Arizona. The Legislature further finds that the fine punishment should be proportionate to the severity of the offense but equally impact individuals with differing financial resources. The Legislature further finds and declares that the implementation of a pilot program in California which is designed to use a similar day-fine system would serve as a test for a fairer method in California of dispensing criminal justice and as a program which possibly could help alleviate the presently overcrowded conditions of our county jails.

SEC. 2. (a) The Judicial Council may establish in one county in which the board of supervisors by resolution agrees to the participation by the county, a two-year pilot program which shall implement a day-fine system commencing on July 1, 1992, and ending on July 1, 1994.

(b) Notwithstanding any other provision of law, if a person is convicted of a misdemeanor in the pilot county, any fine imposed shall be determined under this section. There shall be no minimum fine, and the maximum fine shall not exceed ten thousand dollars ($10,000) for each offense for which the defendant is convicted. The court shall use a percentage formula for allocation of the fines to various funds, including those established by Sections 1463 and 1464 of the Penal Code. There shall not be any penalty assessments, but those funds to which penalty assessments are distributed shall be

included in the percentage formula in proportion to that amount provided for under present law. This section shall not be applicable to infractions.

(c) In the pilot county, the presiding judge of the superior court, the presiding judge of the municipal court, and the other municipal court judges, or if there are more than three municipal court judges, then three municipal court judges appointed by the presiding judge, the district attorney, the public defender, and a member of the Judicial Council shall constitute a planning group to devise a set of scales of day-fine units for misdemeanors ranked according to their gravity. Specific conduct of the offender, including prior offenses, may be included in establishing the scale. After ranking the crimes, each offense shall be assigned a presumptive number of day-fine units. Each offense shall also be assigned a mitigating and aggravating number of units. The number of units for an offense shall not exceed the maximum number of jail days permitted under the applicable code section for the offense. This planning group shall also determine a daily allowance for each dependent.

(d) This section shall not apply to juvenile cases tried under the Juvenile Court Law.

(e) When assessing a day fine, the court shall locate the conviction charge by the code section on the scale prepared under subdivision (c). The court shall use the presumptive units unless the court determines there are aggravating or mitigating factors. If there are aggravating or mitigating factors, the court may use the aggravating or mitigating units.

The net daily income of the offender is the reported gross income divided by the period of time that income covers less one-third for offenders above the federal poverty line and less one-half for offenders below the federal poverty line. This sum shall be reduced by the daily allowance for the number of dependents of the offender. The number of persons for whom an offender is financially responsible is the sum of the offender plus all other persons who derive sole support from his or her income. For an offender who is a dependent, the number includes the head of the household and each supported family member, including the offender.

The day fine for each offense for which there is a conviction is the product of the day-fine units times the net daily income adjusted for the number of dependents.

(f) The fine order shall be deemed a money judgment for the fine. The county agency in charge of collections shall enforce the judgment. If the agency determines that installment payments are necessary, the number of payments shall be as few as possible, and the total fine amount shall be collected in the shortest time possible. If the agency has to use the civil process of the court to collect the fine, they shall be awarded costs and attorney's fees. The agency shall closely monitor the offender's performance, and take immediate action for nonpayment. Additionally, if the convicted person is on probation and the fine is a condition of probation, the court may

revoke probation for willful nonpayment.

(g) Notwithstanding any other provision of law, the court may order the production of income tax records or other income documents in order to determine net daily income.

SEC. 3. The pilot program shall seek to accomplish the following three goals:

(a) Demonstrate that a day-fine system can be implemented in California courts.

(b) Determine what effects the change from a fixed fine to a day-fine system will have on current fining practices.

(c) Determine what penalties day fines displace.

SEC. 4. The Judicial Council may apply for nonstate foundation funds to implement and evaluate the pilot program.

SEC. 5. This act shall remain in effect only until January 1, 1995, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1995, deletes or extends that date.

CHAPTER 910

An act to amend Sections 3579 and 26638.12 of the Government Code, and to amend Sections 150, 830.3, 830.7, and 13510 of the Penal Code, relating to peace officers.

[Approved by Governor October 13, 1991 Filed with Secretary of State October 14, 1991]

The people of the State of California do enact as follows:

SECTION 1. Section 3579 of the Government Code is amended to read:

3579. (a) In each case where the appropriateness of a unit is an issue, in determining an appropriate unit, the board shall take into consideration all of the following criteria:

(1) The internal and occupational community of interest among the employees, including, but not limited to, the extent to which they perform functionally related services or work toward established common goals, the history of employee representation with the employer, the extent to which the employees belong to the same employee organization, the extent to which the employees have common skills, working conditions, job duties, or similar educational or training requirements, and the extent to which the employees have common supervision.

(2) The effect that the projected unit will have on the meet and confer relationships, emphasizing the availability and authority of employer representatives to deal effectively with employee organizations representing the unit, and taking into account factors such as work location, the numerical size of the unit, the relationship of the unit to organizational patterns of the higher education

employer, and the effect on the existing classification structure or existing classification schematic of dividing a single class or single classification schematic among two or more units.

(3) The effect of the proposed unit on efficient operations of the employer and the compatibility of the unit with the responsibility of the higher education employer and its employees to serve students and the public.

(4) The number of employees and classifications in a proposed unit, and its effect on the operations of the employer, on the objectives of providing the employees the right to effective representation, and on the meet and confer relationship.

(5) The impact on the meet and confer relationship created by fragmentation of employee groups or any proliferation of units among the employees of the employer.

(b) There shall be a presumption that professional employees and nonprofessional employees shall not be included in the same representation unit. However, the presumption shall be rebuttable, depending upon what the evidence pertinent to the criteria set forth in subdivision (a) establishes.

(c) There shall be a presumption that all employees within an occupational group or groups shall be included within a single representation unit. However, the presumption shall be rebutted if there is a preponderance of evidence that a single representation unit is inconsistent with the criteria set forth in subdivision (a) or with the purposes of this chapter.

(d) Notwithstanding the foregoing provisions of this section, or any other provision of law, an appropriate group of skilled crafts employees shall have the right to be a single, separate unit of representation. Skilled crafts employees shall include, but not necessarily be limited to, employment categories such as carpenters, plumbers, electricians, painters, and operating engineers. The single unit of representation shall include not less than all skilled crafts employees at a campus or at a Lawrence Laboratory.

(e) Notwithstanding the foregoing provisions of this section, the only appropriate representation units including members of the academic senate of the University of California shall be either a single statewide unit consisting of all eligible members of the senate, or divisional units consisting of all eligible members of a division of the senate. In addition to the limitations of subdivision (q) of Section 3562, the scope of representation of any divisional unit shall be limited to those matters which have customarily been determined on a division basis, but the employer shall consult with the exclusive representative of a division on matters which would be within the scope of representation or consultation of a statewide representative. When 35 percent of the eligible members of the academic senate are represented by an exclusive representative or representatives in divisional units, the board, on petition of a representative or of an organization comprised of those representatives, shall conduct an election to determine if the eligible members of the entire senate

wish thereafter to be represented by a representative or organization in a single unit on all matters within the scope of representation. Any other exclusive representative or organization of representatives or any employee organization meeting the requirements of subdivision (a) of Section 3577 shall be entitled, on petition, to appear on the ballot, and in the event no choice receives a majority of the votes cast, the runoff provisions of subdivision (a) of Section 3577 shall be applicable.

(f) The board shall not determine that any unit is appropriate if it includes, together with other employees, employees who are defined as peace officers pursuant to subdivisions (c) and (d) of Section 830.2 of the Penal Code.

SEC. 2. Section 26638.12 of the Government Code is amended to read:

26638.12. This article shall become inoperative on June 30, 1997, and, as of January 1, 1998, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1998, deletes or extends those dates. Upon the repeal of this article, Sections 74194 and 74195 shall cease to be inoperative.

SEC. 3. Section 150 of the Penal Code is amended to read:

150. Every able-bodied person above 18 years of age who neglects or refuses to join the posse comitatus or power of the county, by neglecting or refusing to aid and assist in taking or arresting any person against whom there may be issued any process, or by neglecting to aid and assist in retaking any person who, after being arrested or confined, may have escaped from arrest or imprisonment, or by neglecting or refusing to aid and assist in preventing any breach of the peace, or the commission of any criminal offense, being thereto lawfully required by any uniformed peace officer, or by any peace officer described in Section 830.1 or in subdivision (a), (b), (c), (d), (e), or (f) of Section 830.2 of the Penal Code who identifies himself or herself with a badge or identification card issued by the officer's employing agency, or by any judge, is punishable by fine of not less than fifty dollars ($50) nor more than one thousand dollars ($1,000).

SEC. 4. Section 830.3 of the Penal Code is amended to read:

830.3. The following persons are peace officers whose authority extends to any place in the state for the purpose of performing their primary duty or when making an arrest pursuant to Section 836 of the Penal Code as to any public offense with respect to which there is immediate danger to person or property, or of the escape of the perpetrator of that offense, or pursuant to Section 8597 or 8598 of the Government Code. These peace officers may carry firearms only if authorized and under those terms and conditions as specified by their employing agencies:

(a) Persons employed by the Division of Investigation of the Department of Consumer Affairs and investigators of the Medical Board of California and the Board of Dental Examiners, who are designated by the Director of Consumer Affairs, provided that the

primary duty of these peace officers shall be the enforcement of the law as that duty is set forth in Section 160 of the Business and Professions Code.

(b) Voluntary fire wardens designated by the Director of Forestry and Fire Protection pursuant to Section 4156 of the Public Resources Code, provided that the primary duty of these peace officers shall be the enforcement of the law as that duty is set forth in Section 4156 of that code.

(c) Employees of the Department of Motor Vehicles designated in Section 1655 of the Vehicle Code, provided that the primary duty of these peace officers shall be the enforcement of the law as that duty is set forth in Section 1655 of that code.

(d) Investigators of the California Horse Racing Board designated by the board, provided that the primary duty of these peace officers shall be the enforcement of Chapter 4 (commencing with Section 19400) of Division 8 of the Business and Professions Code and Chapter 10 (commencing with Section 330) of Title 9 of Part 1 of this code.

(e) The State Fire Marshal and assistant or deputy state fire marshals appointed pursuant to Section 13103 of the Health and Safety Code, provided that the primary duty of these peace officers shall be the enforcement of the law as that duty is set forth in Section 13104 of that code.

(f) Inspectors of the food and drug section designated by the chief pursuant to subdivision (a) of Section 216 of the Health and Safety Code, provided that the primary duty of these peace officers shall be the enforcement of the law as that duty is set forth in Section 216 of that code.

(g) All investigators of the Division of Labor Standards Enforcement designated by the Labor Commissioner, provided that the primary duty of these peace officers shall be enforcement of the law as prescribed in Section 95 of the Labor Code.

(h) All investigators of the State Departments of Health Services, Social Services, Mental Health, Developmental Services, Alcohol and Drug Programs and the Office of Statewide Health Planning and Development, and the Public Employees' Retirement System, provided that the primary duty of these peace officers shall be the enforcement of the law relating to the duties of his or her department, or office. Notwithstanding any other provision of law, investigators of the Public Employees' Retirement System shall not carry firearms.

(i) The Chief of the Bureau of Fraudulent Claims of the Department of Insurance and those investigators designated by the chief, provided that the primary duty of those investigators shall be enforcement of Section 1871.1 of the Insurance Code.

(j) Employees of the Department of Housing and Community Development designated under Section 18023 of the Health and Safety Code, provided that the primary duty of these peace officers shall be the enforcement of the law as that duty is set forth in Section

18023 of that code.

(k) Investigators of the office of the Controller, provided that the primary duty of these investigators shall be the enforcement of the law relating to the duties of that office. Notwithstanding any other law, except as authorized by the Controller, the peace officers designated pursuant to this subdivision shall not carry firearms.

(*l*) Investigators of the Department of Corporations designated by the Commissioner of Corporations, provided that the primary duty of these investigators shall be enforcement of the provisions of law administered by the Department of Corporations. Notwithstanding any other provision of law, the peace officers designated pursuant to this subdivision shall not carry firearms.

(m) Persons employed by the Contractors' State License Board designated by the Director of Consumer Affairs pursuant to Section 7011.5 of the Business and Professions Code, provided that the primary duty of these persons shall be the enforcement of the law as that duty is set forth in Section 7011.5, and in Chapter 9 (commencing with Section 7000) of Division 3, of that code. The Director of Consumer Affairs may designate as peace officers not more than three persons who shall at the time of their designation be assigned to the special investigations unit of the board. Notwithstanding any other provision of law, the persons designated pursuant to this subdivision shall not carry firearms.

(n) The chief and coordinators of the Law Enforcement Division of the Office of Emergency Services.

(o) Investigators of the Office of the Secretary of State designated by the Secretary of State, provided that the primary duty of these peace officers shall be the enforcement of the law as prescribed in Chapter 3 (commencing with Section 8200) of Division 1 of Title 2 of, and Section 12172.5 of, the Government Code. Notwithstanding any other provision of law, the peace officers designated pursuant to this subdivision shall not carry firearms.

(p) The Deputy Director for Security designated by Section 8880.38 of the Government Code, and all lottery security personnel assigned to the California State Lottery and designated by the director, provided that the primary duty of any of those peace officers shall be the enforcement of the laws related to assuring the integrity, honesty, and fairness of the operation and administration of the California State Lottery.

(q) Investigators employed by the Investigation Division of the Employment Development Department designated by the director of the department, provided that the primary duty of those peace officers shall be the enforcement of the law as that duty is set forth in Section 317 of the Unemployment Insurance Code.

Notwithstanding any other provision of law, the peace officers designated pursuant to this subdivision shall not carry firearms.

(r) Notwithstanding any other provision of this section, a peace officer authorized by this section shall not be authorized to carry firearms by his or her employing agency until that agency has

adopted a policy on the use of deadly force by those peace officers, and until those peace officers have been instructed in the employing agency's policy on the use of deadly force.

Every peace officer authorized pursuant to this section to carry firearms by his or her employing agency shall qualify in the use of the firearms at least every six months.

SEC. 5. Section 830.3 of the Penal Code is amended to read:

830.3. The following persons are peace officers whose authority extends to any place in the state for the purpose of performing their primary duty or when making an arrest pursuant to Section 836 of the Penal Code as to any public offense with respect to which there is immediate danger to person or property, or of the escape of the perpetrator of that offense, or pursuant to Section 8597 or 8598 of the Government Code. These peace officers may carry firearms only if authorized and under those terms and conditions as specified by their employing agencies:

(a) Persons employed by the Division of Investigation of the Department of Consumer Affairs and investigators of the Medical Board of California and the Board of Dental Examiners, who are designated by the Director of Consumer Affairs, provided that the primary duty of these peace officers shall be the enforcement of the law as that duty is set forth in Section 160 of the Business and Professions Code.

(b) Voluntary fire wardens designated by the Director of Forestry and Fire Protection pursuant to Section 4156 of the Public Resources Code, provided that the primary duty of these peace officers shall be the enforcement of the law as that duty is set forth in Section 4156 of that code.

(c) Employees of the Department of Motor Vehicles designated in Section 1655 of the Vehicle Code, provided that the primary duty of these peace officers shall be the enforcement of the law as that duty is set forth in Section 1655 of that code.

(d) Investigators of the California Horse Racing Board designated by the board, provided that the primary duty of these peace officers shall be the enforcement of Chapter 4 (commencing with Section 19400) of Division 8 of the Business and Professions Code and Chapter 10 (commencing with Section 330) of Title 9 of Part 1 of this code.

(e) The State Fire Marshal and assistant or deputy state fire marshals appointed pursuant to Section 13103 of the Health and Safety Code, provided that the primary duty of these peace officers shall be the enforcement of the law as that duty is set forth in Section 13104 of that code.

(f) Inspectors of the food and drug section designated by the chief pursuant to subdivision (a) of Section 216 of the Health and Safety Code, provided that the primary duty of these peace officers shall be the enforcement of the law as that duty is set forth in Section 216 of that code.

(g) All investigators of the Division of Labor Standards

Enforcement designated by the Labor Commissioner, provided that the primary duty of these peace officers shall be enforcement of the law as prescribed in Section 95 of the Labor Code.

(h) All investigators of the State Departments of Health Services, Social Services, Mental Health, Developmental Services, Alcohol and Drug Programs and the Office of Statewide Health Planning and Development, and the Public Employees' Retirement System, provided that the primary duty of these peace officers shall be the enforcement of the law relating to the duties of his or her department, or office. Notwithstanding any other provision of law, investigators of the Public Employees' Retirement System shall not carry firearms.

(i) The Chief of the Bureau of Fraudulent Claims of the Department of Insurance and those investigators designated by the chief, provided that the primary duty of those investigators shall be enforcement of Section 1871.1 of the Insurance Code.

(j) Employees of the Department of Housing and Community Development designated under Section 18023 of the Health and Safety Code, provided that the primary duty of these peace officers shall be the enforcement of the law as that duty is set forth in Section 18023 of that code.

(k) Investigators of the office of the Controller, provided that the primary duty of these investigators shall be the enforcement of the law relating to the duties of that office. Notwithstanding any other law, except as authorized by the Controller, the peace officers designated pursuant to this subdivision shall not carry firearms.

(*l*) Investigators of the Department of Corporations designated by the Commissioner of Corporations, provided that the primary duty of these investigators shall be enforcement of the provisions of law administered by the Department of Corporations. Notwithstanding any other provision of law, the peace officers designated pursuant to this subdivision shall not carry firearms.

(m) Persons employed by the Contractors' State License Board designated by the Director of Consumer Affairs pursuant to Section 7011.5 of the Business and Professions Code, provided that the primary duty of these persons shall be the enforcement of the law as that duty is set forth in Section 7011.5, and in Chapter 9 (commencing with Section 7000) of Division 3, of that code. The Director of Consumer Affairs may designate as peace officers not more than three persons who shall at the time of their designation be assigned to the special investigations unit of the board. Notwithstanding any other provision of law, the persons designated pursuant to this subdivision shall not carry firearms.

(n) The chief and coordinators of the Law Enforcement Division of the Office of Emergency Services.

(o) Investigators of the Office of the Secretary of State designated by the Secretary of State, provided that the primary duty of these peace officers shall be the enforcement of the law as prescribed in Chapter 3 (commencing with Section 8200) of Division 1 of Title 2

of, and Section 12172.5 of, the Government Code. Notwithstanding any other provision of law, the peace officers designated pursuant to this subdivision shall not carry firearms.

(p) The Deputy Director for Security designated by Section 8880.38 of the Government Code, and all lottery security personnel assigned to the California State Lottery and designated by the director, provided that the primary duty of any of those peace officers shall be the enforcement of the laws related to assuring the integrity, honesty, and fairness of the operation and administration of the California State Lottery.

(q) Investigators employed by the Investigation Division of the Employment Development Department designated by the director of the department, provided that the primary duty of those peace officers shall be the enforcement of the law as that duty is set forth in Section 317 of the Unemployment Insurance Code.

Notwithstanding any other provision of law, the peace officers designated pursuant to this subdivision shall not carry firearms.

(r) The chief and assistant chief of museum security and safety of the California Museum of Science and Industry, as designated by the executive director pursuant to Section 4108 of the Food and Agricultural Code, provided that the primary duty of those peace officers shall be the enforcement of the law as that duty is set forth in Section 4108 of the Food and Agricultural Code.

(s) Notwithstanding any other provision of this section, a peace officer authorized by this section shall not be authorized to carry firearms by his or her employing agency until that agency has adopted a policy on the use of deadly force by those peace officers, and until those peace officers have been instructed in the employing agency's policy on the use of deadly force.

Every peace officer authorized pursuant to this section to carry firearms by his or her employing agency shall qualify in the use of the firearms at least every six months.

SEC. 5.3. Section 830.3 of the Penal Code is amended to read:

830.3. The following persons are peace officers whose authority extends to any place in the state for the purpose of performing their primary duty or when making an arrest pursuant to Section 836 of the Penal Code as to any public offense with respect to which there is immediate danger to person or property, or of the escape of the perpetrator of that offense, or pursuant to Section 8597 or 8598 of the Government Code. These peace officers may carry firearms only if authorized and under those terms and conditions as specified by their employing agencies:

(a) Persons employed by the Division of Investigation of the Department of Consumer Affairs and investigators of the Medical Board of California and the Board of Dental Examiners, who are designated by the Director of Consumer Affairs, provided that the primary duty of these peace officers shall be the enforcement of the law as that duty is set forth in Section 160 of the Business and Professions Code.

(b) Voluntary fire wardens designated by the Director of Forestry and Fire Protection pursuant to Section 4156 of the Public Resources Code, provided that the primary duty of these peace officers shall be the enforcement of the law as that duty is set forth in Section 4156 of that code.

(c) Employees of the Department of Motor Vehicles designated in Section 1655 of the Vehicle Code, provided that the primary duty of these peace officers shall be the enforcement of the law as that duty is set forth in Section 1655 of that code.

(d) Investigators of the California Horse Racing Board designated by the board, provided that the primary duty of these peace officers shall be the enforcement of Chapter 4 (commencing with Section 19400) of Division 8 of the Business and Professions Code and Chapter 10 (commencing with Section 330) of Title 9 of Part 1 of this code.

(e) The State Fire Marshal and assistant or deputy state fire marshals appointed pursuant to Section 13103 of the Health and Safety Code, provided that the primary duty of these peace officers shall be the enforcement of the law as that duty is set forth in Section 13104 of that code.

(f) Inspectors of the food and drug section designated by the chief pursuant to subdivision (a) of Section 216 of the Health and Safety Code, provided that the primary duty of these peace officers shall be the enforcement of the law as that duty is set forth in Section 216 of that code.

(g) All investigators of the Division of Labor Standards Enforcement designated by the Labor Commissioner, provided that the primary duty of these peace officers shall be enforcement of the law as prescribed in Section 95 of the Labor Code.

(h) All investigators of the State Departments of Health Services, Social Services, Mental Health, Developmental Services, Alcohol and Drug Programs, the Department of Toxic Substances Control, and the Office of Statewide Health Planning and Development, and the Public Employees' Retirement System, provided that the primary duty of these peace officers shall be the enforcement of the law relating to the duties of his or her department, or office. Notwithstanding any other provision of law, investigators of the Public Employees' Retirement System shall not carry firearms.

(i) The Chief of the Bureau of Fraudulent Claims of the Department of Insurance and those investigators designated by the chief, provided that the primary duty of those investigators shall be enforcement of Section 1871.1 of the Insurance Code.

(j) Employees of the Department of Housing and Community Development designated under Section 18023 of the Health and Safety Code, provided that the primary duty of these peace officers shall be the enforcement of the law as that duty is set forth in Section 18023 of that code.

(k) Investigators of the office of the Controller, provided that the primary duty of these investigators shall be the enforcement of the

law relating to the duties of that office. Notwithstanding any other law, except as authorized by the Controller, the peace officers designated pursuant to this subdivision shall not carry firearms.

(*l*) Investigators of the Department of Corporations designated by the Commissioner of Corporations, provided that the primary duty of these investigators shall be enforcement of the provisions of law administered by the Department of Corporations. Notwithstanding any other provision of law, the peace officers designated pursuant to this subdivision shall not carry firearms.

(m) Persons employed by the Contractors' State License Board designated by the Director of Consumer Affairs pursuant to Section 7011.5 of the Business and Professions Code, provided that the primary duty of these persons shall be the enforcement of the law as that duty is set forth in Section 7011.5, and in Chapter 9 (commencing with Section 7000) of Division 3, of that code. The Director of Consumer Affairs may designate as peace officers not more than three persons who shall at the time of their designation be assigned to the special investigations unit of the board. Notwithstanding any other provision of law, the persons designated pursuant to this subdivision shall not carry firearms.

(n) The chief and coordinators of the Law Enforcement Division of the Office of Emergency Services.

(o) Investigators of the Office of the Secretary of State designated by the Secretary of State, provided that the primary duty of these peace officers shall be the enforcement of the law as prescribed in Chapter 3 (commencing with Section 8200) of Division 1 of Title 2 of, and Section 12172.5 of, the Government Code. Notwithstanding any other provision of law, the peace officers designated pursuant to this subdivision shall not carry firearms.

(p) The Deputy Director for Security designated by Section 8880.38 of the Government Code, and all lottery security personnel assigned to the California State Lottery and designated by the director, provided that the primary duty of any of those peace officers shall be the enforcement of the laws related to assuring the integrity, honesty, and fairness of the operation and administration of the California State Lottery.

(q) Investigators employed by the Investigation Division of the Employment Development Department designated by the director of the department, provided that the primary duty of those peace officers shall be the enforcement of the law as that duty is set forth in Section 317 of the Unemployment Insurance Code.

Notwithstanding any other provision of law, the peace officers designated pursuant to this subdivision shall not carry firearms.

(r) Notwithstanding any other provision of this section, a peace officer authorized by this section shall not be authorized to carry firearms by his or her employing agency until that agency has adopted a policy on the use of deadly force by those peace officers, and until those peace officers have been instructed in the employing agency's policy on the use of deadly force.

Every peace officer authorized pursuant to this section to carry firearms by his or her employing agency shall qualify in the use of the firearms at least every six months.

SEC. 5.5. Section 830.3 of the Penal Code is amended to read:

830.3. The following persons are peace officers whose authority extends to any place in the state for the purpose of performing their primary duty or when making an arrest pursuant to Section 836 of the Penal Code as to any public offense with respect to which there is immediate danger to person or property, or of the escape of the perpetrator of that offense, or pursuant to Section 8597 or 8598 of the Government Code. These peace officers may carry firearms only if authorized and under those terms and conditions as specified by their employing agencies:

(a) Persons employed by the Division of Investigation of the Department of Consumer Affairs and investigators of the Medical Board of California and the Board of Dental Examiners, who are designated by the Director of Consumer Affairs, provided that the primary duty of these peace officers shall be the enforcement of the law as that duty is set forth in Section 160 of the Business and Professions Code.

(b) Voluntary fire wardens designated by the Director of Forestry and Fire Protection pursuant to Section 4156 of the Public Resources Code, provided that the primary duty of these peace officers shall be the enforcement of the law as that duty is set forth in Section 4156 of that code.

(c) Employees of the Department of Motor Vehicles designated in Section 1655 of the Vehicle Code, provided that the primary duty of these peace officers shall be the enforcement of the law as that duty is set forth in Section 1655 of that code.

(d) Investigators of the California Horse Racing Board designated by the board, provided that the primary duty of these peace officers shall be the enforcement of Chapter 4 (commencing with Section 19400) of Division 8 of the Business and Professions Code and Chapter 10 (commencing with Section 330) of Title 9 of Part 1 of this code.

(e) The State Fire Marshal and assistant or deputy state fire marshals appointed pursuant to Section 13103 of the Health and Safety Code, provided that the primary duty of these peace officers shall be the enforcement of the law as that duty is set forth in Section 13104 of that code.

(f) Inspectors of the food and drug section designated by the chief pursuant to subdivision (a) of Section 216 of the Health and Safety Code, provided that the primary duty of these peace officers shall be the enforcement of the law as that duty is set forth in Section 216 of that code.

(g) All investigators of the Division of Labor Standards Enforcement designated by the Labor Commissioner, provided that the primary duty of these peace officers shall be enforcement of the law as prescribed in Section 95 of the Labor Code.

(h) All investigators of the State Departments of Health Services, Social Services, Mental Health, Developmental Services, Alcohol and Drug Programs, the Department of Toxic Substances Control, and the Office of Statewide Health Planning and Development, and the Public Employees' Retirement System, provided that the primary duty of these peace officers shall be the enforcement of the law relating to the duties of his or her department, or office. Notwithstanding any other provision of law, investigators of the Public Employees' Retirement System shall not carry firearms.

(i) The Chief of the Bureau of Fraudulent Claims of the Department of Insurance and those investigators designated by the chief, provided that the primary duty of those investigators shall be enforcement of Section 1871.1 of the Insurance Code.

(j) Employees of the Department of Housing and Community Development designated under Section 18023 of the Health and Safety Code, provided that the primary duty of these peace officers shall be the enforcement of the law as that duty is set forth in Section 18023 of that code.

(k) Investigators of the office of the Controller, provided that the primary duty of these investigators shall be the enforcement of the law relating to the duties of that office. Notwithstanding any other law, except as authorized by the Controller, the peace officers designated pursuant to this subdivision shall not carry firearms.

(*l*) Investigators of the Department of Corporations designated by the Commissioner of Corporations, provided that the primary duty of these investigators shall be enforcement of the provisions of law administered by the Department of Corporations. Notwithstanding any other provision of law, the peace officers designated pursuant to this subdivision shall not carry firearms.

(m) Persons employed by the Contractors' State License Board designated by the Director of Consumer Affairs pursuant to Section 7011.5 of the Business and Professions Code, provided that the primary duty of these persons shall be the enforcement of the law as that duty is set forth in Section 7011.5, and in Chapter 9 (commencing with Section 7000) of Division 3, of that code. The Director of Consumer Affairs may designate as peace officers not more than three persons who shall at the time of their designation be assigned to the special investigations unit of the board. Notwithstanding any other provision of law, the persons designated pursuant to this subdivision shall not carry firearms.

(n) The chief and coordinators of the Law Enforcement Division of the Office of Emergency Services.

(o) Investigators of the Office of the Secretary of State designated by the Secretary of State, provided that the primary duty of these peace officers shall be the enforcement of the law as prescribed in Chapter 3 (commencing with Section 8200) of Division 1 of Title 2 of, and Section 12172.5 of, the Government Code. Notwithstanding any other provision of law, the peace officers designated pursuant to this subdivision shall not carry firearms.

(p) The Deputy Director for Security designated by Section 8880.38 of the Government Code, and all lottery security personnel assigned to the California State Lottery and designated by the director, provided that the primary duty of any of those peace officers shall be the enforcement of the laws related to assuring the integrity, honesty, and fairness of the operation and administration of the California State Lottery.

(q) Investigators employed by the Investigation Division of the Employment Development Department designated by the director of the department, provided that the primary duty of those peace officers shall be the enforcement of the law as that duty is set forth in Section 317 of the Unemployment Insurance Code.

Notwithstanding any other provision of law, the peace officers designated pursuant to this subdivision shall not carry firearms.

(r) The chief and assistant chief of museum security and safety of the California Museum of Science and Industry, as designated by the executive director pursuant to Section 4108 of the Food and Agricultural Code, provided that the primary duty of those peace officers shall be the enforcement of the law as that duty is set forth in Section 4108 of the Food and Agricultural Code.

(s) Notwithstanding any other provision of this section, a peace officer authorized by this section shall not be authorized to carry firearms by his or her employing agency until that agency has adopted a policy on the use of deadly force by those peace officers, and until those peace officers have been instructed in the employing agency's policy on the use of deadly force.

Every peace officer authorized pursuant to this section to carry firearms by his or her employing agency shall qualify in the use of the firearms at least every six months.

SEC. 6. Section 830.7 of the Penal Code is amended to read:

830.7. The following persons are not peace officers but may exercise the powers of arrest of a peace officer as specified in Section 836 during the course and within the scope of their employment, if they successfully complete a course in the exercise of those powers pursuant to Section 832:

(a) Persons designated by a cemetery authority pursuant to Section 8325 of the Health and Safety Code.

(b) Persons regularly employed as security officers for institutions of higher education, recognized under subdivision (a) of Section 94310.1 of the Education Code, if the institution has concluded a memorandum of understanding, permitting the exercise of that authority, with the sheriff or chief of police within whose jurisdiction the institution lies.

(c) Persons regularly employed as security officers for health facilities, as defined in Section 1250 of the Health and Safety Code, which are owned and operated by cities, counties, and cities and counties, if the facility has concluded a memorandum of understanding, permitting the exercise of that authority, with the sheriff or chief of police within whose jurisdictions the facility lies.

(d) Employees of the California Department of Forestry and Fire Protection designated by the Director of Forestry and approved by the Secretary of the Resources Agency.

(e) Employees of the Public Utilities Commission assigned to the Transportation Division, designated by the division director and approved by the commission, to the extent necessary to enforce the provisions of the Public Utilities Code. These employees may exercise the power to serve warrants as specified in Sections 1523 and 1530 during the course and within the scope of their employment, if they receive a course in the exercise of those powers pursuant to Section 832.

(f) Persons regularly employed as inspectors, supervisors, or security officers for transit districts, as defined in Section 99213 of the Public Utilities Code, if the district has concluded a memorandum of understanding permitting the exercise of that authority, with, as applicable, the sheriff, chief of police, or California Highway Patrol within whose jurisdiction the district lies. For purposes of this subdivision, the exercise of peace officer authority may include the authority to remove a vehicle from a railroad right-of-way as set forth in Section 22656 of the Vehicle Code.

SEC. 7. Section 13510 of the Penal Code is amended to read:

13510. (a) For the purpose of raising the level of competence of local law enforcement officers, the commission shall adopt, and may from time to time amend, rules establishing minimum standards relating to physical, mental, and moral fitness which shall govern the recruitment of any city police officers, peace officer members of a county sheriff's office, marshals or deputy marshals of a municipal court, peace officer members of a county coroner's office notwithstanding Section 13526, reserve officers, as defined in subdivision (a) of Section 830.6, police officers of a district authorized by statute to maintain a police department, peace officer members of a police department operated by a joint powers agency established by Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 of the Government Code, regularly employed and paid inspectors and investigators of a district attorney's office, as defined in Section 830.1, who conduct criminal investigations, or peace officer members of a district, in any city, county, city and county, or district receiving state aid pursuant to this chapter, and shall adopt, and may from time to time amend, rules establishing minimum standards for training of city police officers, peace officer members of county sheriff's offices, marshals or deputy marshals of a municipal court, peace officer members of a county coroner's office notwithstanding Section 13526, reserve officers, as defined in subdivision (a) of Section 830.6, police officers of a district authorized by statute to maintain a police department, peace officer members of a police department operated by a joint powers agency established by Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 of the Government Code, regularly employed and paid inspectors and investigators of a district attorney's office, as

defined in Section 830.1, who conduct criminal investigations, and peace officer members of a district which shall apply to those cities, counties, cities and counties, and districts receiving state aid pursuant to this chapter. Those rules shall be adopted and amended pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(b) The commission shall conduct research concerning job-related educational standards and job-related selection standards to include vision, hearing, physical ability, and emotional stability. Job-related standards which are supported by this research shall be adopted by the commission prior to January 1, 1985, and shall apply to those peace officer classes identified in subdivision (a). The commission shall consult with local entities during the conducting of related research into job-related selection standards.

(c) For the purpose of raising the level of competence of local public safety dispatchers, the commission shall adopt, and may from time to time amend, rules establishing minimum standards relating to the recruitment and training of local public safety dispatchers having a primary responsibility for providing dispatching services for local law enforcement agencies described in subdivision (a), which standards shall apply to those cities, counties, cities and counties, and districts receiving state aid pursuant to this chapter. These standards also shall apply to consolidated dispatch centers operated by an independent public joint powers agency established pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 of the Government Code when providing dispatch services to the law enforcement personnel listed in subdivision (a). Those rules shall be adopted and amended pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. As used in this section, "primary responsibility" refers to the performance of law enforcement dispatching duties for a minimum of 50 percent of the time worked within a pay period.

(d) Nothing in this section shall prohibit a local agency from establishing selection and training standards which exceed the minimum standards established by the commission.

SEC. 8. (a) Section 5 of this bill incorporates amendments to Section 830.3 of the Penal Code proposed by both this bill and AB 1196. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1992, (2) each bill amends Section 830.3 of the Penal Code, (3) SB 51 is not enacted or as enacted does not amend this section, and (4) this bill is enacted after AB 1196, in which case Sections 4, 5.3, and 5.5 of this bill shall not become operative.

(b) Section 5.3 of this bill incorporates amendments to Section 830.3 of the Penal Code proposed by both this bill and SB 51. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1992, (2) each bill amends Section 830.3 of the Penal Code, (3) AB 1196 is not enacted or as enacted does not amend

that section, and (4) this bill is enacted after SB 51 in which case Sections 4, 5, and 5.5 of this bill shall not become operative.

(c) Section 5.5 of this bill incorporates amendments to Section 830.3 of the Penal Code proposed by this bill, AB 1196, and SB 51. It shall only become operative if (1) all three bills are enacted and become effective January 1, 1992, (2) all three bills amend Section 830.3 of the Penal Code, and (3) this bill is enacted after AB 1196 and SB 51, in which case Sections 4, 5, and 5.3 of this bill shall not become operative.

CHAPTER 911

An act to amend Sections 72608, 72609, 72645, 72646, 72649, 72703, 72704, 72704.5, 72705, 72708.5, 72750.4, 72750.5, 72751, 72751.1, 72751.5, 72752, 72753, 72754, 72755, 72762, 72766, 72767, 72769, 72770, 72771, 72772, 72773, 72774, 72775, 72778, 72779, 72780, 72781, 72783, 72784, 74905, 74907, 74909, and 74912 of, to amend and renumber Sections 72717, 72717.5, and 72718 of, and to add Sections 72763 and 72768 to, the Government Code, relating to courts.

[Approved by Governor October 13, 1991 Filed with Secretary of State October 14, 1991.]

The people of the State of California do enact as follows:

SECTION 1. Section 72608 of the Government Code is amended to read:

72608. Certain classes of positions prescribed in Article 1.5 (commencing with Section 72620), Article 2 (commencing with Section 72640), Article 3 (commencing with Section 72700), and Article 4 (commencing with Section 72750) of this chapter are deemed to be related in job and compensation to position classifications included in the Los Angeles County Code, and in the case of certain classes of positions, to the administrative series included in Section 69894.1. In order to maintain the relationship of compensation and employee rights and benefits between such officers and attachés of municipal courts and county or superior court employees having commensurate duties and responsibilities and to provide appropriate salary adjustments and employee rights and benefits for related classes of court positions, the provisions of this section shall govern salary adjustments and employee rights and benefits for officers and attachés of municipal courts in Los Angeles County.

On the effective date of any amendment to such code adjusting the salary of a county employee classification listed in the table of positions set forth in this section, or on the effective date of a resolution or ordinance by the board of supervisors approving interim salary adjustments for superior court classes pursuant to

Section 69894.2, the salary of the related municipal court position listed opposite thereto shall be adjusted an equivalent number of schedules or steps in a schedule in the salary schedule to which such position is attached. If the level of compensation established by any such salary adjustment is not reflected in the salary schedule number provided for any court classification, the adjustment shall apply to each position in such classification on the effective date of the act fixing such salary schedule number. Classes of positions in the Performance-Based Pay Plan shall be compensated and adjusted in accordance with provisions approved by the board of supervisors.

Likewise, the salary of any court classification being enumerated in Article 1.5 (commencing with Section 72620), Article 2 (commencing with Section 72640), Article 3 (commencing with Section 72700), or Article 4 (commencing with Section 72750) of this chapter for the first time as an amendment to this chapter shall be adjusted as necessary on the effective date of such amendment to provide the same relationship to the county classification to which it is attached as that established when the court classification was approved in accordance with the provisions of Section 72607.

Table of Positions

Municipal Court Class	County or Superior Court Class
Officer Series	
Marshal	Commander
Assistant Marshal	Commander
Commander, Marshal	Commander
Captain, Marshal	Captain
Lieutenant, Marshal	Lieutenant
Sergeant, Marshal	Sergeant
Deputy Marshal IV	Deputy Sheriff IV
Deputy Marshal	Deputy Sheriff
Deputy Marshal Trainee	Deputy Sheriff Trainee
Deputy Marshal, Matron	Custody Assistant
Deputy Clerk, Custody Officer	Custody Assistant
Legal Services Specialist, Marshal	Safety Police Officer II
Municipal Courts Planning and Research	
Chief Staff Attorney, P & R	Senior Deputy County Counsel
Assistant Chief Staff Attorney, P & R	Senior Deputy County Counsel
Staff Attorney II, P & R	Senior Deputy County Counsel

Staff Attorney I, P & R	Senior Deputy County Counsel
Legal Research Assistant, P & R	Senior Deputy County Counsel
Planning Analyst, P & R	Program Specialist I, CAO
Planning Analyst Aide, P & R	Administrative Staff Trainee, CAO
Head, Management Services, P & R	Program Specialist I, CAO
Senior Planning Analyst, P & R	Program Specialist I, CAO

Courtroom Series

All positions subject to civil service provisions enumerated in Articles 2, 3, and 4 which are not listed in this table.	Superior Court Clerk
Municipal Court Clerk Trainee	Administrative Aide

Management Series

Court Administrator, LAMC	Performance-Based Pay Plan
Assistant Court Administrator, LAMC	Performance-Based Pay Plan
Deputy Court Administrator, Admin. and Financial Service, LAMC	Performance-Based Pay Plan
Deputy Court Administrator, Operations, LAMC	Performance-Based Pay Plan
Division Chief, Operations, LAMC	Performance-Based Pay Plan
Division Chief, Operations, NCS, LAMC	Performance-Based Pay Plan
Senior Court Manager, M.C., NCS	Performance-Based Pay Plan
Personnel Administrator, NCS, M.C.	Performance-Based Pay Plan
Senior Program & System Analyst, M.C.	Performance-Based Pay Plan
Senior Program & System Analyst, NCS, M.C.	Performance-Based Pay Plan
Managing Court Reporter, NCS, LAMC	Performance-Based Pay Plan
Capital Projects Manager, M.C., NCS	Performance-Based Pay Plan
Assistant Capital Projects Manager, NCS, LAMC	Performance-Based Pay Plan

Court Information Officer, M.C.	Performance-Based Pay Plan
Chief, Systems Division, NCS, M.C.	Performance-Based Pay Plan
Assistant Chief, Systems Division, M.C., NCS	Performance-Based Pay Plan
Senior Court Manager, NCS, LAMC	Performance-Based Pay Plan
Assistant Division Chief Operations	Performance-Based Pay Plan
Assistant Division Chief Operations, NCS, M.C.	Performance-Based Pay Plan
Court Manager, LAMC, NCS	Performance-Based Pay Plan
Court Administrator (except Los Angeles Judicial District)	Structure adjustment to the nearest one-quarter of one percent approved by the board of supervisors for application to the ranges established for classes assigned to the Performance-Based Pay Plan.
Assistant Chief Deputy, Clerk, M.C.	Program Specialist I, CAO
Assistant Court Administrator (1 judge court)	Court Administrator (1 judge court)
Assistant Court Administrator (2 judge court)	Court Administrator (2 judge court)
Assistant Court Administrator (3,4,5 judge court)	Court Administrator (3,4,5 judge court)
Assistant Court Administrator (6 judge court)	Court Administrator (6 judge court)
Assistant Court Administrator (7 judge court)	Court Administrator (7 judge court)
Assistant Court Administrator (8 judge court)	Court Administrator (8 judge court)
Assistant Court Administrator (9 judge court)	Court Administrator (9 judge court)
Assistant Court Administrator (10,11,12 judge court)	Court Administrator (10,11,12 judge court)
Judicial Management Intern, M.C., NCS	Administrative Assistant II
Division Chief, Long Beach, M.C.	Program Specialist I, CAO
Principal Clerk, Los Angeles	Supervising Superior Court Clerk

Personnel-Administrative Services-Accounting Series

Head, Fiscal & Administrative Services, Marshal	Program Specialist I, CAO

Head Personnel Technician, M.C., NCS	Head Departmental Personnel Technician
Head Personnel Technician, Marshal	Head Departmental Personnel Technician
Personnel Technician, M.C.	Senior Departmental Personnel Technician
Personnel Technician, M.C., NCS	Senior Departmental Personnel Technician
Personnel Technician, Marshal	Senior Departmental Personnel Technician
Personnel Assistant, M.C.	Departmental Personnel Assistant
Personnel Assistant, M.C., NCS	Departmental Personnel Assistant
Safety Officer, Marshal	Safety Officer
Senior Personnel Assistant, M.C.	Senior Departmental Personnel Assistant
Senior Personnel Assistant, M.C., NCS	Senior Departmental Personnel Assistant
Senior Personnel Technician, M.C.	Head, Departmental Personnel Technician
Senior Staff Assistant, Marshal	Program Specialist I, CAO
Staff Assistant, Marshal	Program Specialist I, CAO
Principal Clerk, Marshal	Program Specialist I, CAO
Assistant Head, Fiscal & Administrative Services, Marshal	Program Specialist I, CAO
Executive Assistant, Presiding Judges Association	Program Specialist I, CAO
Principal Administrative Assistant, M.C.	Administrative Assistant III
Principal Administrative Assistant, M.C., NCS	Administrative Assistant III
Principal Personnel Assistant, M.C.	Principal Departmental Personnel Assistant
Principal Personnel Assistant, M.C., NCS	Principal Departmental Personnel Assistant
Supervising Accountant, M.C., NCS	Senior Accountant Auditor
Senior Administrative Assistant, M.C.	Administrative Assistant II
Senior Administrative Assistant, M.C., NCS	Administrative Assistant II
Administrative Assistant, M.C.	Administrative Assistant I
Administrative Assistant, M.C., NCS	Administrative Assistant I
Staff Assistant, M.C.	Staff Assistant I

Staff Assistant, M.C., NCS	Staff Assistant I
Statistical Analyst	Statistical Analyst
Statistical Analyst, M.C., NCS	Statistical Analyst
Accountant, M.C.	Accountant II
Accountant, M.C., NCS	Accountant II
Accounting Technician, M.C.	Accounting Technician I
Accounting Technician, M.C., NCS	Accounting Technician I
Intermediate Accountant, M.C.	Intermediate Accountant Auditor
Intermediate Accountant, M.C., NCS	Intermediate Accountant Auditor
Senior Accountant, M.C.	Intermediate Accountant Auditor
Senior Accountant, M.C., NCS	Intermediate Accountant Auditor
Facilities Services Assistant, M.C.	Facilities Services Assistant
Facilities Services Assistant, M.C., NCS	Facilities Services Assistant
Facilities Planning Assistant, M.C.	Facilities Planning Assistant
Facilities Planning Assistant, M.C., NCS	Facilities Planning Assistant
Staff Development Specialist, Muni Crt	Staff Development Specialist, D.A.
Staff Development Specialist, M.C., NCS	Staff Development Specialist, D.A.
Account Clerk, M.C.	Account Clerk II
Personnel Clerk, M.C.	Senior Typist-Clerk
Personnel Clerk, M.C., NCS	Senior Typist-Clerk

Secretarial and Stenographic Series

Secretary to Presiding Judge, LAMC	Executive Secretary II
Secretary to Presiding Judge, M.C., NCS	Executive Secretary II
Executive Secretary, M.C.	Executive Secretary II
Executive Secretary, M.C., NCS	Executive Secretary II
Senior Management Secretary, LAMC	Executive Secretary II
Senior Management Secretary, M.C., NCS	Executive Secretary II
Management Secretary, M.C.	Executive Secretary II
Management Secretary, M.C., NCS	Executive Secretary II

Executive Secretary, Marshal	Executive Secretary II
Senior Secretary II, Muni Ct	Senior Secretary II
Senior Secretary II, M.C., NCS	Senior Secretary II
Management Secretary, Marshal	Senior Secretary II
Senior Judicial Secretary, Muni Ct	Senior Secretary II
Senior Judicial Secretary, M.C., NCS	Senior Secretary II
Senior Secretary III, Muni Ct	Senior Secretary II
Senior Secretary III, M.C., NCS	Senior Secretary II
Senior Secretary I, Muni Ct	Senior Secretary II
Senior Secretary I, M.C., NCS	Senior Secretary II
Secretary, Marshal	Senior Secretary II
Secretary, Muni Ct	Senior Secretary II
Secretary, M.C., NCS	Senior Secretary II
Senior Secretary, Marshal	Senior Secretary II
Stenographer, M.C.	Legal Office Support Assistant II
Stenographer, M.C., NCS	Legal Office Support Assistant II

Clerical Series

Deputy Municipal Court Clerk I	Intermediate Typist-Clerk
Deputy Clerk II, Marshal	Intermediate Typist-Clerk
Deputy Clerk I, Marshal	Intermediate Typist-Clerk
Deputy Municipal Court Clerk II	Intermediate Typist-Clerk
Deputy Clerk III, M.C.	Intermediate Typist-Clerk
Deputy Clerk III, Marshal	Intermediate Typist-Clerk
Administrative Clerk, Marshal	Intermediate Typist-Clerk
Clerical Aide, Municipal Court	Intermediate Typist-Clerk
Clerical Aide, M.C., NCS	Intermediate Typist-Clerk
Senior Payroll Clerk, Marshal	Payroll Clerk II
Supervising Payroll Clerk, Marshal	Supervising Payroll Clerk I
Payroll Clerk, Marshal	Assistant Payroll Clerk II

Marshal's Dispatcher	Communication Operator II, Sheriff
Supervising Deputy Clerk I, M.C.	Supervising Typist-Clerk
Deputy Clerk Supervisor, NCS, LAMC	Supervising Typist-Clerk
Senior Courtroom Clerk, M.C., NCS	Senior Judicial Assistant

Supply, Duplicating, and Miscellaneous Series

Supply and Reproduction Supervisor, Marshal	Warehouse Worker II
Supply and Reproduction Assistant, Marshal	Warehouse Worker II
Warehouse Worker Aide, M.C. NCS	Warehouse Worker Aide
Procurement Assistant II, M.C.	Procurement Assistant II
Procurement Assistant II, M.C., NCS	Procurement Assistant II
Procurement Aide, M.C.	Procurement Aide
Procurement Aide, M.C., NCS	Procurement Aide
Light Vehicle Driver, Marshal	Communications Messenger Driver
Light Vehicle Driver, M.C.	Light Vehicle Driver
Light Vehicle Driver, M.C., NCS	Light Vehicle Driver
General Maintenance Supervisor, M.C.	General Maintenance Supervisor
General Maintenance Supervisor, M.C., NCS	General Maintenance Supervisor
General Maintenance Worker, M.C.	General Maintenance Worker
General Maintenance Worker, M.C., NCS	General Maintenance Worker
Warehouse Worker II, M.C.	Warehouse Worker II
Warehouse Worker II, M.C., NCS	Warehouse Worker II
Warehouse Manager, M.C.	Warehouse Manager
Warehouse Manager, M.C., NCS	Warehouse Manager
Graphic Artist, M.C.	Graphic Artist
Graphic Artist, M.C., NCS	Graphic Artist
Supervising Law Clerk, M.C.	Supervising Law Clerk (SC)

Law Clerk	Law Clerk (SC)
Interpreter, M.C., NCS	Interpreter (SC)

Management Information and Data Processing Series

Data Systems Coordinator, M.C.	Data Systems Coordinator
Data Systems Coordinator, M.C., NCS	Data Systems Coordinator
Data Systems Analyst I, M.C.	Data Systems Analyst I
Data Systems Analyst I, M.C., NCS	Data Systems Analyst I
Data Systems Analyst II, M.C.	Data Systems Analyst II
Data Systems Analyst II, M.C., NCS	Data Systems Analyst II
Data Conversion Supervisor I, M.C.	Data Conversion Supervisor I
Data Conversion Supervisor I, M.C., NCS	Data Conversion Supervisor I
Data Conversion Supervisor III, M.C.	Data Conversion Supervisor III
Data Conversion Supervisor III, M.C., NCS	Data Conversion Supervisor III
EDP Staff Aide, M.C.	Systems Aide
EDP Staff Aide, M.C., NCS	Systems Aide
Supervising Computer Operator, M.C.	Supervising Computer Operator
Supervising Computer Operator, M.C., NCS	Supervising Computer Operator
Computer Operations Supervisor, M.C.	Supervising Computer Operator
Computer Operations Supervisor, M.C., NCS	Supervising Computer Operator
Computer Equipment Operator, M.C.	Computer Equipment Operator
Computer System Operator, M.C.	Computer Systems Operator
Senior Data Control Clerk, M.C.	Senior Data Control Clerk
Data Control Clerk, M.C.	Data Control Clerk
Senior Data Conversion Equipment Operator, M.C	Senior Data Conversion Equipment Operator
Data Conversion Equipment Operator I, M.C.	Data Conversion Equipment Operator I
Principal Programmer Analyst, M.C.	EDP Principal Programmer Analyst

Principal Programmer Analyst, M.C., NCS	EDP Principal Programmer Analyst
Senior Programmer Analyst, M.C.	EDP Programmer Analyst II
Senior Programmer Analyst, M.C., NCS	EDP Programmer Analyst II
Systems Programmer, M.C.	EDP Systems Programmer
Systems Programmer, M.C. NCS	EDP Systems Programmer
Telecommunications Technician	Computer Systems Operator
Telecommunications Technician, M.C., NCS	Computer Systems Operator
Senior Telecommunications Systems Engineer, M.C., NCS	Senior Telecommunications Systems Engineer
Data Processing Specialist I, M.C., NCS	Data Processing Specialist I

All classes of positions approved by a majority of the judges of the municipal court and the board of supervisors for inclusion in the Los Angeles County Performance-Based Pay Plan will be compensated in accordance with the provisions of this plan as set forth in Part 3, Chapter 6.08, of the Los Angeles County Code. All of these provisions are applicable to participants in the marshal's department, except that for the marshal, the appointing authority is the municipal court judges of Los Angeles County, and for all other participants in the marshal's department, the authority is the marshal. For purposes of PBP administration only, the appointing authority for the court administrator, Los Angeles Judicial District, is the court's executive committee. The court administrator, is the appointing authority for all other participants in the Los Angeles Judicial District.

The presiding judge, the immediate past presiding judge (if still a member of the Los Angeles Municipal Court) and the assistant presiding judge will confer with the court administrator to establish new performance goals and evaluate the completion of previously established goals; these judges will then rate the court administrator's performance using the PBP rating categories established in the county code. The presiding judge shall present this rating to the executive committee for ratification at its July meeting. In the event that the executive committee does not act upon the rating, the presiding judge shall forward the rating to the CAO for inclusion in the Los Angeles Municipal Court's Merit Salary Increase Guideline. In the event a rating is not completed, the court administrator's salary will be adjusted in accordance with the Los Angeles Municipal Court Merit Increase Guideline based on a "fully meets expectations" rating.

Any existing special pay provision applicable to court classes included in PBP and which is expressed in terms of additional

schedules of compensation will be converted to a percentage basis in accordance with the county's plan which equates each schedule with 2.75 percent.

Salary adjustments made pursuant to this section shall be on an interim basis and shall be effective only until January 1 of the second year following the year in which the adjustment is made, unless ratified by the Legislature.

Officers and attachés of municipal courts in Los Angeles County shall be entitled to all employee rights, programs and benefits, including, but not limited to, paid medical plans, management incentive, pay for performance, deferred compensation plans, flexible benefit plans, and early separation programs, parking and cafeteria privileges, longevity pay, shooting allowance, uniform and equipment allowance, and the same rights to meet with those entities which prescribe their compensation, that are provided for or made applicable to the related Los Angeles County and county clerk/superior court employee classification. Participation in management incentive early separation programs and pay for performance shall be established by joint action and approval of a majority of the board of supervisors and a majority of the judges of the court, except in the Los Angeles Judicial District where such joint action shall be approved by a majority of the board of supervisors and a majority of the court's executive committee.

Bonus Level I assignments of deputy marshals are as follows:

Nineteen positions—assistant commander, small division.

Twelve positions—court supervisor.

Nine positions—field supervisor.

Nine positions—office supervisor.

Three positions communications and fleet management supervisor.

One position—training officer.

One position—real estate levy/bookkeeping section supervisor.

Bonus Level II assignments of deputy marshals are as follows:

One position security liaison and investigations.

Deputy marshals with Bonus Level I assignments shall receive additional compensation in the same amounts, for the same periods, and paid on the same terms, as deputy sheriffs assigned to Bonus Level I positions. Deputy marshals with Bonus Level II assignments shall receive additional compensation in the same amounts, for the same periods, and paid on the same terms, as deputy sheriffs assigned to Bonus Level II positions.

In addition to the salary adjustment otherwise provided by this section, persons employed in the classifications of executive secretary, M.C., senior management secretary, M.C., and secretary to the presiding judge shall receive a one-time only two-schedule salary increase effective January 1, 1989. The resulting salary rate shall constitute the base rates for subsequent salary adjustments.

In addition to the salary provided by the applicable performance-based pay provisions, a 16.5 percent bonus shall be paid to no more than one position of deputy court administrator in the Los Angeles Municipal Court who is admitted to practice law before all courts in California and required to render legal opinions and provide legal advice to the court administrator and judges.

Any deputy clerk grade I, II, III, or IV who, in addition to a regular courtroom assignment, is required to operate and monitor electronic recording equipment to produce the official record of the court proceedings shall receive a two-schedule increase in compensation while so engaged. Effective January 3, 1989, any Deputy Clerk IV assigned to a courtroom, who in addition to his or her regular duties, is required to operate and monitor electronic recording equipment to produce a record of court proceedings shall receive an increase of eight standard salary levels while so engaged. However, in no event shall a person who is receiving additional compensation for performing duties involving greater skill and responsibility as described in subdivision (b) of Section 72705 and subdivisions (j), (k), and (*l*) of Section 72755 be eligible to receive additional compensation pursuant to this subdivision, except for a deputy clerk grade III assigned to the regular duties of a deputy clerk grade IV as provided in subdivision (i) of Section 72755.

SEC. 2. Section 72609 of the Government Code is amended to read:

72609. Except where otherwise provided by law, officers and attachés of municipal courts in Los Angeles County shall receive a monthly salary at a rate specified in the Los Angeles County Code as follows:

Title	Range/ Schedule
Account Clerk, M.C.	50F
Accountant, M.C.	63K
Accountant, M.C., NCS	63K
Accounting Technician, M.C.	53C
Accounting Technician, M.C., NCS	53C
Administrative Assistant, M.C.	N2 57A
Administrative Assistant, M.C., NCS	N2 57A
Administrative Clerk, Marshal	57J
Assistant Capital Projects Manager, NCS, LAMC	N23 R8
Assistant Chief Deputy Clerk, M.C.	75F
Assistant Chief Staff Attorney, Planning and Research	94J NW
Assistant Chief, Systems Division, M.C., NCS	N23 R10
Assistant Court Administrator LAMC	N23 R15
Assistant Court Administrator (1 judge court)	79C
Assistant Court Administrator (2 judge court)	80C
Assistant Court Administrator (3,4,5 judge court)	81C

Assistant Court Administrator (6 judge court)	82C
Assistant Court Administrator (7 judge court)	83C
Assistant Court Administrator (8 judge court)	84C
Assistant Court Administrator (9 judge court)	85C
Assistant Court Administrator (10,11,12 judge court)	86C
Assistant Division Chief, Operations	N23 R8
Assistant Division Chief, Operations, LAMC, NCS	N23 R8
Assistant Head, Fiscal & Administrative Services, Marshal	81J
Assistant Marshal	110K
Capital Projects Manager, M.C., NCS	N23 R10
Captain, Marshal	97E
Chief Deputy Clerk	74F
Chief Staff Attorney, Planning and Research	NX 98L
Chief, Systems Division, NCS, MC	N23 R12
Clerical Aide, Municipal Court	32K
Clerical Aide, M.C., NCS	32K
Commander, Marshal	101K
Computer Equipment Operator, M.C.	51D
Computer Operations Supervisor, M.C.	73G
Computer Operations Supervisor, M.C., NCS	73G
Computer Systems Operator, M.C.	56L
Court Administrator (1 judge court)	87C
Court Administrator (2 judge court)	88C
Court Administrator (3,4,5 judge court)	89C
Court Administrator (6 judge court)	90C
Court Administrator (7 judge court)	91C
Court Administrator (8 judge court)	92C
Court Administrator (9 judge court)	93C
Court Administrator (10,11,12 judge court)	94C
Court Administrator, Los Angeles Municipal Court	N23 R18
Court Information Officer, M.C., NCS	N23 R8
Court Manager, LAMC, NCS	N23 R6
Data Control Clerk, M.C.	47A
Data Conversion Equipment Operator I, M.C.	49F
Data Conversion Supervisor I, M.C.	56H
Data Conversion Supervisor I, M.C., NCS	56H
Data Conversion Supervisor III, M.C.	66C
Data Conversion Supervisor III, M.C., NCS	66C
Data Processing Specialist I, M.C., NCS	91D
Data Systems Analyst I, M.C.	71B
Data Systems Analyst I, M.C., NCS	71B
Data Systems Analyst II, M.C.	73J
Data Systems Analyst II, M.C., NCS	73J
Data Systems Coordinator, M.C.	81A
Data Systems Coordinator, M.C., NCS	81A

Deputy Clerk I, Marshal	N4 47L
Deputy Clerk II, Marshal	51C
Deputy Clerk III, Marshal	53K
Deputy Clerk III, M.C.	53K
Deputy Clerk IV, M.C.	NX 66B
Deputy Clerk-Custody Officer, Marshal	54A
Deputy Clerk Supervisor, NCS, LAMC	60C
Deputy Court Administrator, Administrative & Financial Services LAMC	N23 R13
Deputy Court Administrator, Operations, LAMC	N23 R13
Deputy Marshal	72H
Deputy Marshal IV	76H
Deputy Marshal Matron	NW 61C
Deputy Marshal Trainee	72A
Deputy Municipal Court Clerk I	N3 47L
Deputy Municipal Court Clerk II	51C
Division Chief, Long Beach, M.C.	79F
Division Chief, Operations, LAMC	N23 R11
Division Chief, Operations, NCS, LAMC	N23 R11
EDP Staff Aide, M.C.	56A
EDP Staff Aide, M.C., NCS	56A
Executive Assistant to Presiding Judges Association	73H
Executive Secretary, M.C.	N3 76D
Executive Secretary, M.C., NCS	N3 76D
Executive Secretary, Marshal	N3 72E
Facilities Planning Assistant, M.C.	62J
Facilities Planning Assistant, M.C., NCS	62J
Facilities Services Assistant, M.C.	56J
Facilities Services Assistant, M.C., NCS	56J
General Maintenance Supervisor, M.C.	65C
General Maintenance Supervisor, M.C., NCS	65C
General Maintenance Worker, M.C.	55L
General Maintenance Worker, M.C., NCS	55L
Graphic Artist, M.C.	62B
Graphic Artist, M.C., NCS	62B
Head, Fiscal and Administrative Services, Marshal	87E
Head, Management Services, Planning and Research	79C
Head, Personnel Technician, M.C., NCS	78F
Head, Personnel Technician, Marshal	78F
Intermediate Accountant, M.C.	73L
Intermediate Accountant, M.C., NCS	73L
Interpreter, M.C., NCS	55D
Judicial Management Intern, M.C., NCS	66E
Law Clerk	72E
Legal Research Assistant, Planning and Research	FH
Legal Services Specialist, Marshal	56F
Lieutenant, Marshal	89G

Light Vehicle Driver, M.C.	45B
Light Vehicle Driver, M.C., NCS	45B
Light Vehicle Driver, Marshal	45B
Management Secretary, M.C.	N3 66D
Management Secretary, M.C., NCS	N3 66D
Management Secretary, Marshal	N3 69E
Managing Court Reporter, NCS, LAMC	N23 R9
Marshal	114H
Marshal's Dispatcher	56G
Municipal Court Clerk Trainee	FM
Payroll Clerk, Marshal	53F
Personnel Administrator, NCS, M.C.	N23 R11
Personnel Assistant, M.C.	54D
Personnel Assistant, M.C., NCS	54D
Personnel Clerk, M.C.	52E
Personnel Clerk, M.C., NCS	52E
Personnel Technician, Marshal	74F
Personnel Technician, M.C.	74F
Personnel Technician, M.C., NCS	74F
Planning Analyst Aide, Planning and Research	N2 59L
Planning Analyst, Planning and Research	70F
Principal Administrative Assistant, M.C.	70E
Principal Administrative Assistant, M.C., NCS	70E
Principal Clerk, Los Angeles	72H
Principal Clerk, Marshal	58L
Principal Personnel Assistant, M.C.	70F
Principal Personnel Assistant, M.C., NCS	70F
Principal Programmer Analyst, M.C.	84B
Principal Programmer Analyst, M.C., NCS	84B
Procurement Aide, M.C.	53J
Procurement Aide, M.C., NCS	53J
Procurement Assistant II, M.C.	61H
Procurement Assistant II, M.C., NCS	61H
Safety Officer, Marshal	71C
Secretary, Marshal	60D
Secretary, Muni Ct	58D
Secretary, M.C., NCS	58D
Secretary to Presiding Judge, LAMC	N3 78D
Secretary to Presiding Judge, M.C., NCS	N3 78D
Senior Accountant, M.C.	76H
Senior Accountant, M.C., NCS	76H
Senior Administrative Assistant, M.C.	66E
Senior Administrative Assistant, M.C., NCS	66E
Senior Courtroom Clerk, M.C., NCS	75J
Senior Court Manager, NCS, LAMC	N23 R8
Senior Data Control Clerk, M.C.	50K
Senior Data Conversion Equipment Operator	53F
Senior Judicial Secretary, Muni Ct	N3 65D
Senior Judicial Secretary, M.C., NCS	N3 65D

Senior Management Secretary, LAMC	N3 72D
Senior Management Secretary, M.C., NCS	N3 72D
Senior Payroll Clerk, Marshal	56F
Senior Personnel Assistant, M.C.	63H
Senior Personnel Assistant, M.C., NCS	63H
Senior Personnel Technician, M.C.	78F
Senior Planning Analyst, Planning and Research..	73H
Senior Program and System Analyst, M.C.	N23 R6
Senior Program and System Analyst, NCS, M.C.	N23 R6
Senior Programmer Analyst, M.C.	78J
Senior Programmer Analyst, M.C., NCS	78J
Senior Secretary I, Muni Ct	60D
Senior Secretary I, M.C., NCS	60D
Senior Secretary II, Muni Ct	62D
Senior Secretary II, M.C., NCS	62D
Senior Secretary III, Muni Ct	N3 65D
Senior Secretary III, M.C., NCS	N3 65D
Senior Secretary, Marshal	64D
Senior Staff Assistant, Marshal	73F
Senior Telecommunications Systems, Engineer, M.C., NCS	N4 84E
Sergeant, Marshal	83C
Staff Assistant, Marshal	63H
Staff Assistant, Muni Ct	57L
Staff Assistant, M.C., NCS	57L
Staff Attorney I, Planning and Research	N3 74E
Staff Attorney II, Planning and Research	NW 85J
Staff Development Specialist, Muni Ct	71E
Staff Development Specialist, M.C., NCS	71E
Statistical Analyst, M.C.	60D
Statistical Analyst, M.C., NCS	60D
Stenographer, M.C.	N3-Z 57F
Stenographer, M.C., NCS	N3-Z 57F
Supervising Accountant, M.C., NCS	79K
Supervising Branch Clerk	NX 70L
Supervising Computer Operator, M.C.	63G
Supervising Computer Operator, M.C., NCS	63G
Supervising Deputy Clerk I, M.C.	58C
Supervising Deputy Clerk II, M.C.	NX 68B
Supervising Law Clerk	74E
Supervising Law Clerk, M.C., NCS	74E
Supervising Payroll Clerk, Marshal	59F
Supply and Reproduction Assistant, Marshal	50F
Supply and Reproduction Supervisor, Marshal	56F
Systems Programmer, M.C.	76J
Systems Programmer, M.C., NCS	76J
Telecommunications Technician, M.C.	64L
Telecommunications Technician, M.C., NCS	64L
Warehouse Manager, M.C.	64H

Warehouse Manager, M.C., NCS	64H
Warehouse Worker II, M.C.	57A
Warehouse Worker II, M.C., NCS	57A
Warehouse Worker Aide, M.C., NCS	51A

The term "schedule" used herein refers to the salary schedule of the Los Angeles County Code. The term "range" used herein refers to the Performance-Based Pay Plan of Los Angeles County.

SEC. 3. Section 72645 of the Government Code is amended to read:

72645. The marshal shall appoint all of the following:

(a) One assistant marshal. The marshal shall make the appointment from the peace officer members of the marshal's office of the rank of lieutenant or higher and the appointee shall serve solely at the pleasure of the marshal. Section 72649 does not apply to the appointment to, nor removal of a person from, this position, but all other provisions of Section 72649 apply. Upon removal by the marshal for any reason other than that which would be cause for the discharge of any other member, an appointee shall revert to the rank held by the appointee prior to his or her appointment to the position of assistant marshal.

(b) Three commanders. Upon the occurrence of a vacancy, any succeeding appointment to this position may be made by the marshal at his or her sole discretion. At that time and thereafter, Section 72649 shall not be applicable to the appointment to, nor removal of, a person from, this position, but all other provisions of Section 72649 shall be applicable. The marshal shall make this appointment from the peace officer members of his or her office of the rank of lieutenant or higher, and the appointee shall serve solely at the pleasure of the marshal. Upon removal by the marshal for any reason other than that which would be cause for the discharge of any other member, an appointee shall revert to the rank held prior to appointment as commander.

(c) Nine captains.

(d) Twenty-eight lieutenants.

(e) Forty sergeants.

(f) Six hundred forty-four deputy marshals; except that the number of deputy marshals shall be reduced by the number of deputy marshal IV positions required to be retained pursuant to Section 72645.5.

(g) Twenty-seven deputy marshal trainees. Appointments to the positions shall be made from civil service lists resulting from open competitive examinations, provided that notwithstanding Section 72649, the appointees shall be subject to a 12-month period of probation.

(h) Four deputy marshal-matrons, each of whom shall have completed a course of training which meets the requirements of the POST commission for a specialized law enforcement basic certificate.

(i) Two deputy clerk-custody officers.

(j) Ten legal services specialists, marshal, each of whom shall receive monthly compensation at the same rate specified for the county's class of security officer II.

SEC. 4. Section 72646 of the Government Code is amended to read:

72646. The marshal shall appoint:

(a) One head, fiscal and administrative services, marshal.

(b) One senior staff assistant, marshal.

(c) One executive secretary, marshal. Appointment to this position shall be at step 3 of the schedule.

(d) Three staff assistants, marshal.

(e) One management secretary, marshal.

(f) One principal clerk.

(g) One supply and reproduction supervisor, marshal.

(h) Two senior secretaries, marshal.

(i) Nine administrative clerks.

(j) One supervising payroll clerk, marshal.

(k) One supply and reproduction assistant, marshal.

(*l*) Sixty deputy clerks, grade III.

(m) Three secretaries, marshal.

(n) Fifty-two deputy clerks, grade II.

(o) Eight deputy clerks, grade I.

(p) Such deputies who shall be keepers, as may be reasonably required pursuant to law, at the fee allowed by law for keeping property.

(q) Five marshal's dispatchers.

(r) One safety officer, marshal.

(s) One head personnel technician, marshal.

(t) One assistant head, fiscal and administrative services, marshal.

(u) One personnel technician, marshal.

(v) One senior payroll clerk, marshal.

(w) Three payroll clerks, marshal.

(x) One light vehicle driver, marshal.

SEC. 5. Section 72649 of the Government Code is amended to read:

72649. Except where this title otherwise provides, all deputies and other employees of the marshal of municipal courts, Los Angeles County, may be appointed, removed, suspended, or discharged for cause by the marshal, subject in such appointment, removal, suspension, or discharge to all civil service provisions applicable to the personnel of the office of sheriff, Los Angeles County:

(a) Whenever reference to a numbered salary schedule is made in any section of this article, the schedule found in the code of the County of Los Angeles shall apply.

(b) Unless otherwise specifically provided, each person appointed to a position, the compensation of which is fixed by reference to the salary schedule, shall, for the first six months of service, receive monthly the rate of compensation specified in the first step of the

salary schedule for the position to which he is appointed. Upon the first day of the month following six months' continuous service in a class, the initial rate of compensation of such person shall be increased to the next higher step of the salary schedule for the position occupied. On and after the first day of the month following each ensuing 12 months of such service such compensation shall be increased to the rate specified in the next higher step of the salary schedule for the position occupied until such compensation equals the sum specified in step 5 of such schedule.

(c) When any person in the service of the court or of the marshal is appointed or promoted to another office or position in such service compensated at a higher numbered schedule, he shall receive step 1 of such schedule if step 1 is at least one step higher than the salary received in the office or position relinquished; but if not, he shall receive initially that step of the schedule pertaining to such office or position which will provide a one-step increase in his compensation. Provided, whenever a person occupying a permanent superior position is supervising a subordinate and the subordinate is receiving compensation at a rate equal to or greater than that which the superior is receiving, the person occupying the superior position shall be entitled to be advanced in steps to the highest salary paid to the highest ranking subordinate which he supervises plus one dollar ($1).

(d) Notwithstanding the above, each person appointed to a peace officer position set forth in Section 72608, 72640, or 72645 shall be entitled to the same salary step placement during his employment by the marshal and upon appointment, promotion or demotion as an employee of the marshal, as he would receive if he were employed in a related position in the classified service of the County of Los Angeles.

(e) Persons appointed to deputy marshal shall, upon the first day of the month following completion of six years' service including at least two years in a court-related assignment and eighteen months in a field assignment, receive monthly the rate of compensation specified in Step 6 of the schedule.

(f) When any person is demoted to another office or position he shall receive the fifth step rate of salary for the position to which he is demoted, except that if such demotion is due to disciplinary action, the appointing power may indicate any step rate of the lower position which provides compensation not higher than that last previously received by such person.

SEC. 6. Section 72703 of the Government Code is amended to read:

72703. The clerk may appoint:

(a) One deputy clerk who shall be assigned as chief, systems division; and an additional eleven deputy clerks who shall be assigned as division chiefs, operations.

(b) Eighteen deputy clerks who shall be senior court managers, and one additional deputy clerk who shall be assigned as assistant

chief, systems division.

(c) Eight deputy clerks who shall be principal administrative assistants, municipal court.

(d) One deputy clerk who shall be personnel administrator, municipal court.

(e) Four deputy clerks who shall be personnel technicians, municipal court.

(f) Six deputy clerks who shall be personnel assistant, municipal court.

(g) Sixteen deputy clerks who shall be senior administrative assistants, municipal court.

(h) Five deputy clerks, who shall be administrative assistants, municipal court.

(i) Three deputy clerks who shall be accounting technicians, municipal court.

(j) Seven deputy clerks who shall be staff assistants, municipal court.

(k) Five deputy clerks who shall be accountants, municipal court.

(*l*) Seven deputy clerks who shall be intermediate accountants, municipal court.

(m) Four deputy clerks who shall be senior accountants, municipal court.

(n) Eleven deputy clerks who shall be account clerks, municipal court.

(o) One deputy clerk who shall be assistant capital projects manager, municipal court.

(p) One deputy clerk who shall be capital projects manager, municipal court.

(q) One deputy clerk who shall be court information officer, municipal court.

(r) Three deputy clerks who shall be head personnel technicians, municipal court.

(s) One deputy clerk who shall be a judicial management intern, municipal court.

(t) One deputy clerk who shall be managing court reporter, municipal court.

(u) One deputy clerk who shall be a personnel clerk, municipal court.

(v) One deputy clerk who shall be a principal personnel assistant, municipal court.

(w) Three deputy clerks who shall be senior personnel assistants, municipal court.

(x) One deputy clerk who shall be a procurement assistant II, municipal court.

(y) One deputy clerk who shall be a supervising accountant, municipal court.

(z) One deputy clerk who shall be a warehouse manager, municipal court.

(aa) Four deputy clerks who shall be warehouse workers II,

municipal court.

(bb) Three deputy clerks who shall be warehouse worker aides, municipal court.

(cc) Forty deputy clerks who shall be court managers, municipal court.

(dd) Two deputy clerks who shall be graphic artists, municipal court.

SEC. 7. Section 72704 of the Government Code is amended to read:

72704. The clerk may also appoint:

(a) One hundred fifty-seven deputy clerks grade IV, plus one additional such deputy clerk for each judge in excess of 88 and each commissioner or traffic referee in excess of 22 to which the court is or may become entitled by law.

(b) One deputy clerk who shall be secretary to the presiding judge.

(c) One deputy clerk who shall be executive secretary, Los Angeles Municipal Court.

(d) One deputy clerk who shall be senior management secretary, municipal court.

(e) Fourteen deputy clerks who shall be senior judicial secretaries and who shall receive a monthly salary at the same rate specified for the superior court class of senior judicial secretary. Appointments to the positions shall be at step 3 of the schedule.

(f) One hundred ten deputy clerks grade III.

(g) Three hundred sixty-three deputy municipal court clerks grade II.

(h) Eleven deputy clerks, who shall be senior secretaries II, municipal court.

(i) Six deputy clerks who shall be secretaries, municipal court.

(j) Four deputy clerks who shall be management secretaries, municipal court.

(k) Three deputy clerks who shall be facilities services assistants, municipal court.

(*l*) Two deputy clerk who shall be procurement aides, municipal court.

(m) One deputy clerk who shall be a facilities planning assistant, municipal court.

(n) One deputy clerk who shall be statistical analyst.

(o) Three deputy clerks who shall be staff development specialists, municipal court.

(p) One deputy clerk who shall be a municipal court clerk trainee.

(q) Five deputy clerks who shall be clerical aides.

(r) Thirty-three deputy clerks who shall be deputy clerk supervisors.

(s) One deputy clerk who shall be a general maintenance supervisor, municipal court.

(t) Two deputy clerks who shall be general maintenance workers, municipal court.

SEC. 8. Section 72704.5 of the Government Code is amended to read:

72704.5. The clerk may also appoint:

(a) One deputy clerk who shall be computer operations supervisor, municipal court.

(b) One deputy clerk who shall be a data conversion supervisor I, municipal court.

(c) Two deputy clerks who shall be senior data conversion equipment operators.

(d) Twenty-four deputy clerks who shall be data systems analysts II, municipal court.

(e) Three deputy clerks who shall be data systems analysts I, municipal court.

(f) Two deputy clerks who shall be supervising computer operators, municipal court.

(g) Four deputy clerks who shall be computer systems operators, municipal court.

(h) Two deputy clerks who shall be computer equipment operators, municipal court.

(i) Two deputy clerks who shall be senior data control clerks, municipal court.

(j) Six deputy clerks who shall be data control clerks, municipal court.

(k) Twelve deputy clerks who shall be data systems coordinators, municipal court.

(*l*) Five deputy clerks who shall be senior program and systems analysts.

(m) One deputy clerk who shall be principal programmer analyst.

(n) Nine deputy clerks who shall be senior programmer analysts, municipal court.

(o) One deputy clerk who shall be a systems programmer, municipal court.

(p) Two deputy clerks who shall be telecommunications technicians.

(q) One deputy clerk who shall be a senior telecommunications systems engineer, municipal court.

(r) One deputy clerk who shall be a data processing specialist I, municipal court.

(s) One deputy clerk who shall be an EDP staff aide, municipal court.

SEC. 9. Section 72705 of the Government Code is amended to read:

72705. Whenever reference to a numbered salary schedule is made in any section of this article, the schedule found in the Salary Ordinance of the County of Los Angeles shall apply.

(a) Any deputy clerk of grade I classification who is regularly required to work on Saturdays and Sundays, or any deputy clerk who is required regularly to work a night shift shall receive a two-schedule increase in basic compensation. A night shift is a tour

of duty which commences after 2 p.m. and prior to 6 a.m.

(b) Not more than 29 deputy clerks grade IV or municipal court clerk trainees, while assigned to duties in divisions of the court requiring greater skill and responsibility, and, at each branch court of three or more divisions, one deputy clerk grade III assigned to supervise not less than 15 deputy clerks shall receive a two-schedule increase in compensation, provided that such branch court or division in said branch shall not have more than two such deputy clerk positions compensated under this provision at any one time.

(c) Unless otherwise specifically provided, each person appointed to a position set forth in Sections 72702, 72702.5, 72703, 72704, and 72704.5 shall be entitled to the same rights, privileges and benefits allowed Los Angeles County employees as provided in Chapter 1 of Ordinance 6222 of the County of Los Angeles (Title 6, Los Angeles County Code). Any person appointed, promoted, or demoted to another office or position in such service, shall be compensated at the schedule provided for said appointment, promotion, or demotion in Chapter 1 of Ordinance 6222 (Title 6, Los Angeles County Code).

SEC. 10. Section 72708.5 of the Government Code is amended to read:

72708.5. The judges of the court may appoint as many interpreters, not exceeding two, and as many law clerks, not exceeding seven, as the business of the court may require. Two of the law clerks may be appointed supervising law clerks. Employees appointed pursuant to this section shall hold office at the pleasure of the judges and shall receive the same compensation as is paid to the respective class of employees in the Superior Court of Los Angeles County. They shall be members of any retirement system which includes attachés of the court.

SEC. 11. Section 72717 of the Government Code is amended and renumbered to read:

72627. The judges of the municipal courts of Los Angeles County may appoint one chief staff attorney, planning and research, municipal courts. The chief staff attorney shall hold office at the pleasure of the judges of the municipal courts.

SEC. 12. Section 72717.5 of the Government Code is amended and renumbered to read:

72627.5. (a) The chief staff attorney, planning and research, municipal courts, may appoint:

(1) One assistant chief staff attorney, planning and research.

(2) Seven staff attorneys II, planning and research.

(3) One senior secretary III, muni ct, who shall receive a monthly salary at the rate specified for senior judicial secretary.

(4) One senior secretary II, municipal courts.

(5) One stenographer, municipal courts.

(6) Fifteen legal research assistants, planning and research.

(7) Three planning analyst aides, planning and research.

(8) Two senior planning analysts, planning and research.

(9) One data systems analyst I, municipal courts.

(10) One data systems analyst II, municipal courts.

(11) One head of management services, planning and research.

(12) Three principal program analysts.

(b) The chief staff attorney may appoint a staff attorney I in lieu of a staff attorney II on a one-for-one substitute basis.

(c) The chief staff attorney may appoint a senior planning analyst in lieu of a staff attorney II on a one-to-one substitute basis.

(d) The positions appointed pursuant to this section shall not be deemed civil service positions. Each person appointed to these positions shall serve at the pleasure of the chief staff attorney.

SEC. 13. Section 72718 of the Government Code is amended and renumbered to read:

72628. The judges of the municipal courts of Los Angeles County may appoint one senior judicial secretary, who shall serve at the pleasure of the judges.

SEC. 14. Section 72750.4 of the Government Code is amended to read:

72750.4. In each municipal court district having eight judges authorized by law, the officers and attachés shall be appointed, as follows:

There shall be one court administrator who shall be the clerk appointed by the judges of the court.

The clerk may appoint:

(a) Seventeen deputy municipal court clerks I.

(b) Seventeen deputy municipal court clerks II.

(c) Fourteen deputy clerks III, M.C.

(d) Twelve deputy clerks IV, M.C., plus one additional such deputy clerk for each commissioner or traffic referee appointed pursuant to Section 72400 or 72757.

(e) One senior judicial secretary, M.C.

(f) Five assistant chief deputy clerks, M.C.

(g) One occupant of an assistant chief deputy clerk position as set forth in this section shall be designated by the court administrator as assistant court administrator and shall receive a monthly salary eight schedules less than the schedule specified for the court administrator of the court.

SEC. 15. Section 72750.5 of the Government Code is amended to read:

72750.5. In each municipal court district having seven judges authorized by law the officers and attachés shall be appointed as follows:

There shall be one court administrator who shall be the clerk appointed by the judges of the court.

The clerk may appoint:

(a) Eleven deputy municipal court clerks I.

(b) Thirteen deputy municipal court clerks II.

(c) Nine deputy clerks III, M.C.

(d) Nine deputy clerks IV, M.C., plus one additional such deputy clerk for each commissioner or traffic referee appointed pursuant to

Section 72400 or 72757.

(e) One senior judicial secretary.

(f) Five assistant chief deputy clerks, M.C.

(g) One occupant of an assistant chief deputy position as set forth in this section shall be designated by the court administrator as assistant court administrator and shall receive a monthly salary eight schedules less than the schedule for the court administrator of the court.

SEC. 16. Section 72751 of the Government Code is amended to read:

72751. In each municipal court district having six judges authorized by law the officers and attachés shall be appointed as follows:

There shall be one court administrator who shall be the clerk appointed by the judges of the court.

The clerk may appoint:

(a) Ten deputy municipal court clerks I.

(b) Twelve deputy municipal court clerks II.

(c) Eight deputy clerks III, M.C.

(d) Nine deputy clerks IV, M.C., plus one additional such deputy clerk for each commissioner or traffic referee appointed pursuant to Section 72400 or 72757.

(e) One assistant court administrator who shall receive a monthly salary eight schedules less than the schedule specified for the court administrator of the court.

SEC. 17. Section 72751.1 of the Government Code is amended to read:

72751.1. In each municipal court district having five judges authorized by law the officers and attachés shall be appointed as follows:

There shall be one court administrator who shall be the clerk appointed by the judges of the court.

The clerk may appoint:

(a) Nine deputy municipal court clerks I.

(b) Eleven deputy municipal court clerks II.

(c) Nine deputy clerks III, M.C.

(d) Seven deputy clerks IV, M.C., plus one additional such deputy clerk for each commissioner or traffic referee appointed pursuant to Section 72400 or 72757.

(e) One assistant court administrator who shall receive a monthly salary eight schedules less than the schedule specified for the court administrator of said court.

SEC. 18. Section 72751.5 of the Government Code is amended to read:

72751.5. In each municipal court district having four judges authorized by law the officers and attachés shall be appointed as follows:

There shall be one court administrator who shall be the clerk appointed by the judges of the court.

The clerk may appoint:

(a) Nine deputy municipal court clerks I.

(b) Eleven deputy municipal court clerks II.

(c) Nine deputy clerks III, M.C.

(d) Six deputy clerks IV, M.C., plus one additional such deputy clerk for each commissioner or traffic referee appointed pursuant to Section 72400 or 72757.

(e) One assistant court administrator who shall receive a monthly salary eight schedules less than the schedule specified for the court administrator of the court.

SEC. 19. Section 72752 of the Government Code is amended to read:

72752. In each municipal court district having three judges authorized by law the officers and attachés shall be appointed as follows:

There shall be one court administrator who shall be the clerk appointed by the judges of the court.

The clerk may appoint:

(a) Nine deputy municipal court clerks I.

(b) Eleven deputy municipal court clerks II.

(c) Nine deputy clerks III, M.C.

(d) Five deputy clerks IV, M.C., plus one additional such deputy clerk for each commissioner or traffic referee appointed pursuant to Section 72400 or 72757.

(e) One assistant court administrator who shall receive a monthly salary eight schedules less than the schedule specified for the court administrator of the court.

SEC. 20. Section 72753 of the Government Code is amended to read:

72753. In each municipal court district having two judges authorized by law the officers and attachés shall be appointed as follows:

There shall be one court administrator who shall be the clerk appointed by the judges of the court.

The clerk may appoint:

(a) Six deputy municipal court clerks I.

(b) Eight deputy municipal court clerks II.

(c) Six deputy clerks III, M.C.

(d) Three deputy clerks IV, M.C., plus one additional such deputy clerk for each commissioner appointed pursuant to Section 72757.

(e) One assistant court administrator who shall receive a monthly salary eight schedules less than the schedule specified for the court administrator of the court.

SEC. 21. Section 72754 of the Government Code is amended to read:

72754. In each municipal court district having one judge authorized by law the officers and attachés shall be appointed and compensated as follows:

There shall be one court administrator who shall be the clerk

appointed by the judge of the court.

The clerk may appoint:

(a) Three deputy municipal court clerks I.

(b) Four deputy municipal court clerks II.

(c) Four deputy clerks III, M.C.

(d) Two deputy clerks IV, M.C., plus one additional such deputy clerk for each commissioner appointed pursuant to Section 72757.

(e) One assistant court administrator who shall receive a monthly salary eight schedules less than the schedule specified for the court administrator of the court.

SEC. 22. Section 72755 of the Government Code is amended to read:

72755. In those positions for which this article provides a multistep rate of compensation, the provisions of this section shall apply.

(a) Except in the case of transfer, demotion, promotion or where otherwise specifically provided, original appointments to such positions shall be at the rate designated for step 1 of the salary schedule pertaining to the position occupied.

(b) The initial rate of compensation shall be increased to the next higher step of the schedule applicable to the position occupied upon the completion of six months' continuous service in the same position. Upon the completion of each ensuing 12 months of such service, such compensation shall be increased to the rate specified in the next higher step of the salary schedule for the position occupied until such compensation equals the sum specified in the highest step of such schedule.

(c) A step advancement shall not be granted to any person if his or her superior finds that his or her work has been unsatisfactory and so notifies the Civil Service Commission.

(d) When a person is promoted to a position on a multistep basis, he or she shall receive the first-step rate in the salary schedule of the new position which results in an increase in salary.

(e) A person demoted to a lower position shall be entitled to receive whichever of the following rates is lower:

(1) The highest step of the salary schedule pertaining to the position to which he or she is demoted.

(2) The same rate of pay which he or she was receiving prior to demotion.

(f) The appointing power who demotes a person for disciplinary reasons may specify any step rate in the salary schedule pertaining to the lower position except that it shall not be higher than the step rate held by the employee in the higher position.

(g) If a person begins employment between the 1st and 15th of any calendar month, inclusive, his or her step advancement shall be calculated from the first day of that month. Where a person begins employment on or after the 16th day of a calendar month, the step advancement shall be calculated from the first of the next month.

(h) Upon demotion, a person shall retain the anniversary date

held in the higher position.

(i) Any deputy clerk grade III who is necessarily assigned to the regular duties of a deputy clerk grade IV because of an absence of such deputy clerk grade IV shall, for any period of such assignment in excess of 30 calendar days, receive compensation at the rate of that higher numbered salary schedule which will increase his or her basic compensation by four schedules.

(j) One deputy clerk I, II, or III in each municipal court of six judges or less, who having passed the stenographic skills proficiency examination given by the County of Los Angeles for the county position of stenographer, shall be entitled to receive a bonus equivalent to a four-schedule salary increase when regularly required to provide stenographic and secretarial services to the judge or judges of the court.

(k) Not more than one deputy clerk grade IV in each municipal court having six judges or fewer, or two such deputy clerks grade IV in each municipal court having seven judges or more, while assigned to duties in divisions of the court requiring greater skill and responsibility shall receive a two-schedule increase in compensation.

(*l*) Not more than a total of two deputy clerks I, II, or III in each municipal court, while assigned to duties in divisions of the court requiring greater skill and responsibility, shall receive a two-schedule increase in compensation while so assigned. However, in no event shall a deputy clerk who is receiving additional compensation pursuant to subdivision (j) receive the compensation prescribed by this subdivision.

SEC. 23. Section 72762 of the Government Code is amended to read:

72762. In the Alhambra Municipal Court District, the officers and attachés shall be appointed as follows:

(a) There is one court administrator who shall be the clerk appointed by the judges of the court.

(b) The clerk may appoint:

(1) Fourteen deputy municipal court clerks II.

(2) Six deputy clerks III, M.C.

(3) Four deputy clerks IV, M.C.

(4) Three supervising deputy clerks I, M.C.

(5) Three supervising deputy clerks II, M.C.

(6) Three student workers.

(7) One student professional worker.

(8) One assistant court administrator who shall receive a monthly salary eight schedules less than the schedule specified for the court administrator of the court.

(c) The court administrator shall hold office at the pleasure of the judges of that court. This subdivision applies to vacancies occurring on or after January 1, 1991.

SEC. 24. Section 72763 is added to the Government Code, to read:

72763. In the Antelope Municipal Court District, the officers and the attachés shall be appointed, as follows:

(a) There is one court administrator who shall be the clerk appointed by the judges of that court.

(b) The clerk may appoint:

(1) Nine deputy municipal court clerks I.

(2) Eleven deputy municipal court clerks II.

(3) Nine deputy clerks III, M.C.

(4) Seven deputy clerks IV, M.C.

(5) One accountant, M.C.

(6) Two student workers.

(7) Two supervising deputy clerks II, M.C.

(8) One assistant court administrator who shall receive a monthly salary eight schedules less than the schedule specified for the court administrator of that court.

SEC. 25. Section 72766 of the Government Code is amended to read:

72766. In the Citrus Municipal Court District, the officers and attachés shall be appointed, as follows:

(a) There is one court administrator who shall be the clerk appointed by the judges of that court and who shall hold office at the pleasure of the judges of that court.

(b) The clerk may appoint:

(1) Fourteen deputy municipal court clerks I.

(2) Fifteen deputy municipal clerks II.

(3) Six deputy clerks III, M.C.

(4) Eleven deputy clerks IV, M.C.

(5) One senior secretary III, Muni Ct.

(6) Twelve student workers.

(7) Three supervising deputy clerks I, M.C.

(8) Three supervising deputy clerks II, M.C.

(9) Four assistant chief deputy clerks, M.C.

(10) One assistant court administrator who shall receive a monthly salary eight schedules less than the schedule specified for the court administrator of that court.

SEC. 26. Section 72767 of the Government Code is amended to read:

72767. In the Compton Municipal Court District, the officers and attachés shall be appointed, as follows:

(a) There is one court administrator who shall be the clerk appointed by the judges of that court and who shall hold office at the pleasure of the judges of that court.

(b) The clerk may appoint:

(1) Thirty-two deputy municipal court clerks I.

(2) Thirty deputy municipal court clerks II.

(3) Twenty deputy clerks III, M.C.

(4) Fourteen deputy clerks IV, M.C.

(5) One administrative assistant, M.C.

(6) Four assistant chief deputy clerks, M.C.

(7) One data systems analyst II, M.C.

(8) One head departmental personnel technician.

(9) Two principal clerks, Los Angeles.
(10) One senior judicial secretary, Muni Ct.
(11) One senior secretary III, Muni Ct.
(12) One student professional worker.
(13) Four student workers.
(14) Five supervising deputy clerks I, M.C.
(15) Five supervising deputy clerks II, M.C.
(16) One assistant court administrator who shall receive a monthly salary eight schedules less than the schedule specified for the court administrator of that court.

SEC. 27. Section 72768 is added to the Government Code, to read:

72768. In the Culver Municipal Court District, the officers and attachés shall be appointed, as follows:

(a) There is one court administrator, who shall be the clerk appointed by the judges of that court.

(b) The clerk may appoint:
(1) Six deputy municipal court clerks I.
(2) Eight deputy municipal court clerks II.
(3) Six deputy clerks III, M.C.
(4) Four deputy clerks IV, M.C.
(5) One student worker.
(6) One supervising deputy clerk II, M.C.
(7) One assistant court administrator who shall receive a monthly salary eight schedules less than the schedule specified for the court administrator of that court.

SEC. 28. Section 72769 of the Government Code is amended to read:

72769. In the Downey Municipal Court District, the officers and attaches shall be appointed, as follows:

(a) There is one court administrator who shall be the clerk appointed by the judges of that court and who shall hold office at the pleasure of the judges of that court.

(b) The clerk may appoint:
(1) Nine deputy municipal court clerks I.
(2) Twelve deputy municipal court clerks II.
(3) Nine deputy clerks III, M.C.
(4) Six deputy clerks IV, M.C.
(5) Two accounting technicians, M.C.
(6) One principal clerk, Los Angeles.
(7) One secretary, Muni Court.
(8) Five student workers.
(9) Three supervising deputy clerks II, M.C.
(10) One supply clerk, M.C.
(11) One assistant court administrator, who shall receive a monthly salary eight schedules less than the schedule specified for the court administrator of that court.

SEC. 29. Section 72770 of the Government Code is amended to read:

72770. In the East Los Angeles Municipal Court District, the

officers and attachés shall be appointed, as follows:

(a) There is one court administrator who shall be the clerk appointed by the judges of the court and who shall hold office at the pleasure of the judges of that court.

(b) The clerk may appoint:

(1) Nine deputy municipal court clerks I.

(2) Eleven deputy municipal court clerks II.

(3) Nine deputy clerks III, M.C.

(4) Eleven deputy clerks IV, M.C.

(5) Six student workers.

(6) One assistant court administrator who shall receive a monthly salary eight schedules less than the schedule specified for the court administrator of the court.

SEC. 30. Section 72771 of the Government Code is amended to read:

72771. In the Glendale Municipal Court District, the officers and attachés shall be appointed, as follows:

(a) There is one court administrator who shall be the clerk appointed by the judges of the court and who shall hold office at the pleasure of the judges of that court.

(b) The clerk may appoint:

(1) Six deputy municipal court clerks I.

(2) Nine deputy municipal court clerks II.

(3) Five deputy clerks III, M.C.

(4) Seven deputy clerks IV, M.C.

(5) One principal administrative assistant, M.C.

(6) One senior secretary II, Muni Ct.

(7) Two supervising deputy clerks I, M.C.

(8) One supervising deputy clerk II, M.C.

(9) Three student workers.

(10) One assistant court administrator who shall receive a monthly salary eight schedules less than the schedule specified for the court administrator of the court.

SEC. 31. Section 72772 of the Government Code is amended to read:

72772. In the Inglewood Municipal Court District, the officers and attaches shall be appointed, as follows:

(a) There is one court administrator who shall be the clerk appointed by the judges of the court and who shall hold office at the pleasure of the judges of that court.

(b) The clerk may appoint:

(1) Sixteen deputy municipal court clerks I.

(2) Twenty-six deputy municipal court clerks II.

(3) Three deputy clerks III, M.C.

(4) Eleven deputy clerks IV, M.C.

(5) Two principal clerks, Los Angeles.

(6) One procurement aide, M.C.

(7) One senior administrative assistant, M.C.

(8) One senior judicial secretary, Muni Ct.

(9) Three student workers.
(10) Three supervising deputy clerks I, M.C.
(11) Four supervising deputy clerks II, M.C.
(12) One assistant court administrator who shall receive a monthly salary eight schedules less than the schedule specified for the court administrator of the court.

SEC. 32. Section 72773 of the Government Code is amended to read:

72773. In the Long Beach Municipal District, the officers and attachés shall be appointed, as follows:

(a) There is one court administrator who shall be the clerk appointed by the judges of the court and who shall hold office at the pleasure of the judges of that court.

(b) The clerk may appoint:
(1) Twenty-nine deputy municipal court clerks I.
(2) Twenty-five deputy municipal court clerks II.
(3) Fifteen deputy clerks III, M.C.
(4) Thirteen deputy clerks IV, M.C.
(5) Two deputy clerks, senior judicial secretaries, Muni Ct.
(6) Five division chiefs, Long Beach Municipal Court.
(7) One assistant court administrator who shall receive a monthly salary eight schedules less than the schedule specified for the court administrator of the court.
(8) Five supervising deputy clerks I, M.C.
(9) Three supervising deputy clerks II, M.C.
(10) Five principal clerks, Los Angeles.
(11) One senior secretary III, Muni Ct.
(12) One administrative assistant , M.C.
(13) One data systems analyst II, M.C.
(14) One legal research assistant, planning and research.
(15) Two senior administrative assistants, M.C.
(16) One accountant, M.C.
(17) One personnel technician, M.C.
(18) One student professional worker.
(19) Eight student workers.
(20) One procurement aide, M.C.

SEC. 33. Section 72774 of the Government Code is amended to read:

72774. In the Los Cerritos Municipal Court District, the officers and attachés shall be appointed, as follows:

(a) There is one court administrator who shall be the clerk appointed by the judges of the court and who shall hold office at the pleasure of the judges of that court.

(b) The clerk may appoint:
(1) Fourteen deputy municipal court clerks II.
(2) Nine deputy clerks III, M.C.
(3) Five deputy clerks IV, M.C.
(4) One senior judicial secretary, Muni Ct.
(5) Three supervising deputy clerks I, M.C.

(6) Three supervising deputy clerks II, M.C.
(7) Two student workers.
(8) One assistant court administrator who shall receive a monthly salary eight schedules less than the schedule specified for the court administrator of the court.

SEC. 34. Section 72775 of the Government Code is amended to read:

72775. In the Malibu Municipal Court District, the officers and attachés shall be appointed, as follows:

(a) There is one court administrator who shall be the clerk appointed by the judges of the court and who shall hold office at the pleasure of the judges of that court.

(b) The clerk may appoint:
(1) Five deputy municipal court clerks I.
(2) Six deputy municipal court clerks II.
(3) Six deputy clerks III, M.C.
(4) Three deputy clerks IV, M.C.
(5) One senior secretary III, M.C.
(6) One senior administrative assistant, M.C.
(7) Two supervising deputy clerks II, M.C.
(8) Three student workers.
(9) One assistant court administrator who shall receive a monthly salary eight schedules less than the schedule specified for the court administrator of the court.

SEC. 35. Section 72778 of the Government Code is amended to read:

72778. In the Pomona Municipal Court District, the officers and attachés shall be appointed, as follows:

(a) There is one court administrator who shall be the clerk appointed by the judges of that court and who shall hold office at the pleasure of the judges of that court.

(b) The clerk may appoint:
(1) Ten deputy municipal court clerks I.
(2) Eleven deputy municipal court clerks II.
(3) Nine deputy clerks III, M.C.
(4) Eight deputy clerks IV, M.C.
(5) One student professional worker.
(6) Four student workers.
(7) One assistant court administrator who shall receive a monthly salary eight schedules less than the schedule specified for the court administrator of that court.

SEC. 36. Section 72779 of the Government Code is amended to read:

72779. In the Rio Hondo Municipal Court District, the officers and attachés shall be appointed, as follows:

(a) There is one court administrator who shall be the clerk appointed by the judges of that court and who shall hold office at the pleasure of the judges of that court.

(b) The clerk may appoint:

(1) Eight deputy municipal court clerks I.
(2) Ten deputy municipal court clerks II.
(3) Seven deputy clerks III, M.C.
(4) Five deputy clerks IV, M.C.
(5) Three supervising deputy clerks I, M.C.
(6) Three supervising deputy clerks II, M.C.
(7) One student professional worker.
(8) Four student workers.
(9) One assistant court administrator who shall receive a monthly salary eight schedules less than the schedule specified for the court administrator of that court.

SEC. 37. Section 72780 of the Government Code is amended to read:

72780. In the Santa Anita Municipal Court District, the officers and attachés shall be appointed, as follows:

(a) There is one court administrator who shall be the clerk appointed by the judges of that court and who shall hold office at the pleasure of the judges of that court.

(b) The clerk may appoint:
(1) Four deputy municipal court clerks I.
(2) Eight deputy municipal court clerks II.
(3) Two deputy clerks III, M.C.
(4) Five deputy clerks IV, M.C.
(5) One senior administrative assistant, M.C.
(6) One student professional worker.
(7) Two student workers.
(8) One assistant court administrator who shall receive a monthly salary eight schedules less than the schedule specified for the court administrator of that court.

SEC. 38. Section 72781 of the Government Code is amended to read:

72781. In the Santa Monica Municipal Court District, the officers and attachés shall be appointed, as follows:

(a) There is one court administrator who shall be the clerk appointed by the judges of the court.

(b) The clerk may appoint:
(1) Ten deputy municipal court clerks I.
(2) Eleven deputy municipal court clerks II.
(3) Nine deputy clerks III, M.C.
(4) Six deputy clerks IV, M.C.
(5) One senior judicial secretary, Muni Ct.
(6) One secretary, Muni Ct.
(7) Seven student workers.
(8) One assistant court administrator who shall receive a monthly salary eight schedules less than the schedule specified for the court administrator of the court.

(c) The court administrator shall hold office at the pleasure of the judges of the court. This subdivision applies to vacancies occurring on or after January 1, 1989.

SEC. 39. Section 72783 of the Government Code is amended to read:

72783. In the Southeast Municipal Court District, the officers and attachés shall be appointed, as follows:

(a) There shall be one court administrator who shall be the clerk appointed by the judges of the court and who shall hold office at the pleasure of the judges of that court.

(b) The clerk may appoint:

(1) Twenty-seven deputy municipal court clerks II.

(2) Ten deputy clerks III, M.C.

(3) Eleven deputy clerks IV, M.C.

(4) Six supervising deputy clerks II, M.C.

(5) One accounting technician II, M.C.

(6) One senior secretary III, M.C.

(7) Two student professional workers.

(8) Seven student workers.

(9) Two assistant court administrators who shall receive monthly salaries eight schedules less than the schedule specified for the court administrator of the court.

SEC. 40. Section 72784 of the Government Code is amended to read:

72784. In the Whittier Municipal Court District, the officers and attachés shall be appointed, as follows:

(a) There is one court administrator who shall be the clerk appointed by the judges of that court and who shall hold office at the pleasure of the judges of that court.

(b) The clerk may appoint:

(1) Nine deputy municipal court clerks I.

(2) Eleven deputy municipal court clerks II.

(3) Nine deputy clerks III, M.C.

(4) Eight deputy clerks IV, M.C.

(5) One principal administrative assistant, M.C.

(6) One student professional worker.

(7) Six student workers.

(8) One assistant court administrator who shall receive a monthly salary eight schedules less than the schedule specified for the court administrator of that court.

SEC. 41. Section 74905 of the Government Code is amended to read:

74905. (a) There shall be one clerk of the Ventura County Municipal Court, who shall be known as the court executive officer and who shall be appointed by and serve at the pleasure of a majority of the judges of the court. The court executive officer shall receive the monthly compensation of six thousand three hundred ten dollars ($6,310) to eight thousand fifty-two dollars ($8,052).

(b) There shall be one assistant court executive officer and two deputy executive officers of the Ventura County Municipal Court who shall be appointed by and serve at the pleasure of the court executive officer. The assistant court executive officer shall receive

the monthly compensation of four thousand three hundred fifty-seven dollars ($4,357) to five thousand five hundred fifty-nine dollars ($5,559). The deputy executive officers shall receive the monthly compensation of three thousand seven hundred fifty-seven dollars ($3,757) to four thousand seven hundred ninety-four dollars ($4,794).

(c) The rate of monthly compensation to be paid to the court executive officer, assistant court executive officer, and the deputy executive officers, within the compensation ranges set forth in subdivisions (a) and (b), shall be established by joint action and approval of the board of supervisors and a majority of the judges of the court, at an amount equal to that paid county employees with comparable experience and responsibility.

SEC. 42. Section 74907 of the Government Code is amended to read:

74907. The court executive officer may appoint the following positions which shall receive biweekly compensation as specified in Section 74909:

(a) Three managers court divisions.
(b) One office systems coordinator I.
(c) One court interpreter/translator.
(d) Two financial evaluation officers.
(e) Nine clerical supervisors III.
(f) One senior accountant.
(g) One program administrator III.
(h) One administrative officer II.
(i) One administrative assistant I.
(j) Two administrative aides.
(k) Five collections officers II.
(*l*) One supervising accountant.
(m) One courier II.
(n) One court services assistant I.
(o) Fifty-six court services assistants II.
(p) Six court services assistants III.
(q) Two fiscal assistants II.
(r) Four fiscal assistants III.
(s) One fiscal assistant IV.
(t) Three fiscal technicians I.
(u) One microfilm technician II.
(v) One inventory management assistant III.
(w) Twenty-three judicial assistants.
(x) Three judicial secretaries.
(y) One management assistant III.
(z) One management assistant IV-confidential.

SEC. 43. Section 74909 of the Government Code is amended to read:

74909. (a) The following biweekly salary schedule, which is consistent with the Salary Ordinance of the County of Ventura, shall apply to the personnel of the Ventura County Municipal Court:

Municipal Court Classification	Biweekly Rate
Manager Court Divisions	$1,257.00–1,605.00
Program Administrator III	1,422.00–1,815.00
Administrative Officer II	1,570.00–2,004.00
Administrative Assistant I	970.08–1,236.46
Administrative Aide	774.00– 988.17
Supervising Accountant	1,609.00–2,054.00
Microfilm Technician II	645.34– 824.92
Office Systems Coordinator I	1,064.36–1,362.02
Court Interpreter/Translator	1,635.75
Financial Evaluation Officer	767.20– 979.20
Clerical Supervisor III	982.00–1,253.00
Collections Officer II	767.20– 979.20
Courier II	599.20– 764.80
Court Services Assistant I	661.60– 844.00
Court Services Assistant II	786.40–1,004.00
Court Services Assistant III	847.20–1,080.80
Fiscal Assistant II	645.60– 824.00
Fiscal Assistant III	730.40– 932.00
Fiscal Assistant IV	786.40–1,004.00
Fiscal Technician I	868.00–1,108.00
Inventory Management Assistant III	695.20– 887.20
Judicial Assistant	889.60–1,135.20
Judicial Secretaries	847.20–1,080.80
Management Assistant III	847.20–1,080.80
Management Assistant IV Confidential	958.00–1,223.00
Senior Accountant	1,235.76–1,578.36

Merit increases within the salary range shall be in accordance with the salary merit increment plan.

(b) In the event that the above biweekly salary schedule is not applicable, then Section 74912 shall apply.

SEC. 44. Section 74912 of the Government Code is amended to read:

74912. Certain classifications in the Ventura County Municipal Court are deemed to be equivalent in position responsibility and salary level to certain classifications in the service of Ventura County, and whenever the salary of an equivalent classification in the Ventura County service is adjusted by the board of supervisors, the salary of the equivalent classification in the Ventura County Municipal Court and the salary of the personnel in such classifications, shall be adjusted an equivalent amount. The adjustment shall be effective on the same date as the effective date of the action by the board of supervisors as it applies to classifications in the Ventura County service. Any salary increases granted or

reclassifications made pursuant to this article shall be effective only until the effective date of general legislation enacted by the Legislature at its next regular session following the date the salary increases are granted or reclassifications made. Classifications deemed to be equivalent are as follows:

Municipal Court Classification	County Classification
Manager Court Divisions	Manager Court Divisions
Program Administrator III	Program Administrator III
Administrative Officer II	Administrative Officer II
Administrative Assistant I	Administrative Assistant I
Administrative Aide	Administrative Aide
Supervising Accountant	Supervising Accountant
Microfilm Technician II	Microfilm Technician II
Office Systems Coordinator I	Office Systems Coordinator I
Court Interpreter/ Translator	Court Interpreter/ Translator
Financial Evaluation Officer	Financial Evaluation Officer
Clerical Supervisor III	Clerical Supervisor III
Collections Officer II	Collections Officer II
Courier II	Courier II
Court Services Assistant I	Court Services Assistant I
Court Services Assistant II	Court Services Assistant II
Court Services Assistant III	Court Services Assistant III
Fiscal Assistant II	Fiscal Assistant II
Fiscal Assistant III	Fiscal Assistant III
Fiscal Assistant IV	Fiscal Assistant IV
Fiscal Technician I	Fiscal Technician I
Inventory Management Assistant III	Inventory Management Assistant III
Judicial Assistant	Judicial Assistant
Judicial Secretary	Judicial Secretary
Management Assistant III	Management Assistant III
Management Assistant IV-Confidential	Management Assistant IV-Confidential
Senior Accountant	Senior Accountant

SEC. 45. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because this act is in accordance with the request of a local agency or school district which desired legislative authority to carry out the program specified in this act. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the

provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 912

An act to amend Section 13519 of the Penal Code, relating to peace officer training.

[Approved by Governor October 13, 1991. Filed with Secretary of State October 14, 1991.]

The people of the State of California do enact as follows:

SECTION 1. Section 13519 of the Penal Code is amended to read:

13519. (a) The commission shall implement by January 1, 1986, a course or courses of instruction for the training of law enforcement officers in California in the handling of domestic violence complaints and also shall develop guidelines for law enforcement response to domestic violence. The course or courses of instruction and the guidelines shall stress enforcement of criminal laws in domestic violence situations, availability of civil remedies and community resources, and protection of the victim. Where appropriate, the training presenters shall include domestic violence experts with expertise in the delivery of direct services to victims of domestic violence, including utilizing the staff of shelters for battered women in the presentation of training.

As used in this section, "law enforcement officer" means any officer or employee of a local police department or sheriff's office, any peace officer of the Department of Parks and Recreation, as defined in subdivision (g) of Section 830.2, any peace officer of the University of California Police Department, as defined in subdivision (c) of Section 830.2, or any peace officer of the California State University Police Departments, as defined in subdivision (d) of Section 830.2.

(b) The course of basic training for law enforcement officers shall, no later than January 1, 1986, include adequate instruction in the procedures and techniques described below:

(1) The provisions set forth in Title 5 (commencing with Section 13700) relating to response, enforcement of court orders, and data collection.

(2) The legal duties imposed on police officers to make arrests and offer protection and assistance including guidelines for making felony and misdemeanor arrests.

(3) Techniques for handling incidents of domestic violence that minimize the likelihood of injury to the officer and that promote the safety of the victim.

(4) The nature and extent of domestic violence.

(5) The legal rights of, and remedies available to, victims of

domestic violence.

(6) The use of an arrest by a private person in a domestic violence situation.

(7) Documentation, report writing, and evidence collection.

(8) Domestic violence diversion as provided in Chapter 2.6 (commencing with Section 1000.6) of Title 6 of Part 2.

(9) Tenancy issues and domestic violence.

(10) The impact on children of law enforcement intervention in domestic violence.

(11) The services and facilities available to victims and batterers.

(12) The use and applications of this code in domestic violence situations.

(13) Verification and enforcement of temporary restraining orders when (A) the suspect is present and (B) the suspect has fled.

(14) Verification and enforcement of stay-away orders.

(15) Cite and release policies.

(16) Emergency assistance to victims and how to assist victims in pursuing criminal justice options.

The guidelines developed by the commission shall also incorporate the foregoing factors.

(c) (1) All law enforcement officers who have received their basic training before January 1, 1986, shall participate in supplementary training on domestic violence subjects, as prescribed and certified by the commission.

(2) Except as provided in paragraph (3), the training specified in paragraph (1) shall be completed no later than January 1, 1989.

(3) The training for peace officers of the Department of Parks and Recreation, as defined in subdivision (g) of Section 830.2, shall be completed no later than January 1, 1992, and the training for peace officers of the University of California Police Department and the California State University Police Departments, as defined in Section 830.2, shall be completed no later than January 1, 1993.

Local law enforcement agencies are encouraged to include, as part of their advanced officer training program, periodic updates and training on domestic violence. The commission shall assist where possible.

(d) The course of instruction, the learning and performance objectives, the standards for the training, and the guidelines shall be developed by the commission in consultation with appropriate groups and individuals having an interest and expertise in the field of domestic violence. The groups and individuals shall include, but shall not be limited to, the following: one representative each from the California Peace Officers' Association, the Peace Officers' Research Association of California, the State Bar of California, the California Women Lawyers' Association, and the State Commission on the Status of Women; two representatives from the commission; two representatives from the California Alliance Against Domestic Violence; two peace officers, recommended by the commission, who are experienced in the provision of domestic violence training; and

two domestic violence experts, recommended by the California Alliance Against Domestic Violence, who are experienced in the provision of direct services to victims of domestic violence. At least one of the persons selected shall be a former victim of domestic violence.

The commission, in consultation with these groups and individuals, shall review existing training programs to determine in what ways domestic violence training might be included as a part of ongoing programs.

(e) Forty thousand dollars ($40,000) is appropriated from the Peace Officers Training Fund in augmentation of Item 8120-001-268 of the Budget Act of 1984, to support the travel, per diem, and associated costs for convening the necessary experts.

CHAPTER 913

An act to add and repeal Section 39615 to the Health and Safety Code, relating to air pollution.

[Approved by Governor October 13, 1991 Filed with Secretary of State October 14, 1991]

The people of the State of California do enact as follows:

SECTION 1. Section 39615 is added to the Health and Safety Code, to read:

39615. (a) On or before January 1, 1993, the state board, in consultation with districts, the Bureau of Automotive Repair, the Department of Transportation, and the California Highway Patrol, shall prepare and submit to the Legislature and the Governor a report which identifies actions which could be taken by state, regional, and local governments, and the private sector, to reduce air pollution from, or expedite the removal from the state's streets and highways of, high emission motor vehicles which cause or contribute to excessive air pollution. The report shall include recommendations and a plan of action and shall take into account the technical feasibility, costs, and air quality benefits which would occur as a result of the actions identified in the report, as well as the costs to people who own high emission vehicles, and what effect such a plan would have on them.

(b) This section shall remain in effect only until January 1, 1993, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1993, deletes or extends that date.